

CYNTHIA A. HARDING, M.P.H.
Interim Director

JEFFREY D. GUNZE NHAUSER, M.D., M.P.H.
Interim Health Officer

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BOARD OF SUPERVISORS

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ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

October 18, 2016

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

28 October 18, 2016

LORI GLASGOW
EXECUTIVE OFFICER

Dear Supervisors:

**AUTHORIZATION TO ACCEPT AND SIGN A STANDARD AGREEMENT AND FUTURE AWARDS
AND/OR AMENDMENTS FROM THE CALIFORNIA DEPARTMENT OF PUBLIC HEALTH FOR
RYAN WHITE HIV/AIDS CARE PROGRAM SERVICES FOR THE PERIOD OF
APRIL 1, 2016 THROUGH MARCH 31, 2022
(ALL SUPERVISORIAL DISTRICTS) (3 VOTES)**

SUBJECT

Provide authorization to accept and sign a Standard Agreement and future awards and/or amendments from the California Department of Public Health to support Ryan White Part B HIV/AIDS Care Program Services within Los Angeles County.

IT IS RECOMMENDED THAT THE BOARD:

1. Authorize the Interim Director of the Department of Public Health (DPH), or her designee, to accept and sign Standard Agreement (SA) Number 15-11060 (Exhibit I) in the amount of \$18,993,540, received from the California Department of Public Health (CDPH) on August 1, 2016, to support the Ryan White Program (RWP) Part B HIV Care Program (HCP) for the period of April 1, 2016 through March 31, 2019. The general terms and conditions that are incorporated into the SA include provisions requiring the County to indemnify the State for all claims and losses related to this Agreement.
2. Delegate authority to the Interim Director of DPH, or her designee, to accept future awards and/or amendments that are consistent with the requirements of SA Number 15-11060 that extend the term through March 31, 2022, at amounts to be determined by CDPH; reflect non-material and/or ministerial revisions to the award's terms and conditions; allow for the rollover of unspent funds and/or redirection of funds; adjust the term of the award through September 30, 2022; and/or provide an increase or decrease in funding up to 25 percent above or below each term's annual base

amount, subject to review and approval by County Counsel, and notification to your Board and the Chief Executive Office (CEO).

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Approval of Recommendation 1 will allow DPH to accept and sign CDPH RWP Part B HCP SA Number 15-11060 to support the continuation of Part B HCP services for the period April 1, 2016 through March 31, 2019. Currently DPH has delegated authority to accept awards and/or amendments from CDPH for HCP services through March 31, 2018. However, DPH is seeking approval to accept an award for a term that extends beyond the current delegated authority.

HCP services help to minimize new HIV infections and support those living with HIV by providing access to care, treatment, support, and prevention services. HCP services also help reduce HIV/AIDS-related health disparities. These HCP funds will allow DPH to continue the provision of HIV/AIDS residential services for the current RWP Program Year 26 (April 1, 2016 through March 31, 2017). For the remaining terms, DPH's Division of HIV and STD Programs, in collaboration with the Commission on HIV, will participate in the final service allocation priority setting process, which occurs annually, to determine which HIV/AIDS services will be supported with RWP Part B funds. Services may include, but not be limited to: HIV/AIDS case management (non-medical), food bank/home delivered meals, residential services, and home and community-based services.

Approval of Recommendation 2 will allow DPH to accept future awards and/or amendments that are consistent with the requirements the SA to extend and/or adjust the term of the award; reflect non-material revisions to terms and conditions; rollover unspent funds and/or redirect funds; and/or provide an increase or decrease in funding up to 25 percent above or below each grant term's annual base amount. This recommended action will enable DPH to accept future awards and/or amendments that adjust the project period up to six months beyond the original term, in those instances where there has been an unanticipated extension of the term to allow additional time to complete services and utilize grant funding. This authority is being requested to enhance DPH's efforts to expeditiously maximize grant revenue, consistent with Board Policy 4.070: Full Utilization of Grant Funds.

Implementation of Strategic Plan Goals

The recommended actions support Goal 3, Integrated Services Delivery, of the County's Strategic Plan.

FISCAL IMPACT/FINANCING

DPH will accept SA Number 15-11060 in the amount of \$18,993,540 from CDPH for HCP services, for the period effective April 1, 2016 through March 31, 2019. Funding consists of \$2,000,000 for the term effective April 1, 2016 through March 31, 2017, and \$8,496,770 for the subsequent terms effective April 1, 2017 through March 31, 2018 and April 1, 2018 through March 31, 2019. These funds will support DPH personnel costs (salaries and employee benefits), operating expenses, and contractual expenditures associated with HIV/AIDS care services.

As a result of significantly reduced program cost resulting from Affordable Care Act implementation, a one-time reduced allocation to Los Angeles County was negotiated for the current term April 1, 2016 through March 31, 2017. The one-time only reduction has no impact on service delivery levels. DPH anticipates a subsequent increase in the upcoming months for the current year. In addition,

funding levels will be fully restored effective April 1, 2017.

Funding for these actions has been included in DPH's Adopted Budget for fiscal year (FY) 2016-17, and will be included in future FYs, as necessary.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Since 1989, your Board has accepted funds for HCP services under previous State Master Grant Agreements (MGA). HCP funding is awarded on a non competitive basis and is awarded based upon living HIV and AIDS cases (prevalence and incidence data), census data, number of persons per square mile, number of non-English speaking persons, number of persons living below the poverty level, number of people of color, number of Medi-Cal HIV-positive beneficiaries with one or more claims for HIV-specific medications, and number of eligible AIDS Drug Assistance Program (ADAP) clients.

On October 8, 2013, your Board authorize DPH to accept and sign SA Number 13-20056 from CDPH in the amount of \$6,022,588 to support the RWP Part B HCP for the period of July 1, 2013 through March 31, 2014 and delegated authority to accept future awards through March 31, 2018.

On April 4, 2014, I notified your Board that I was exercising delegated authority to accept Amendment 1 to HCP SA Number 13-20056, which increased the maximum obligation for the term effective July 1, 2013 through March 31, 2014, by \$334,741, from \$6,022,588 to \$6,357,329; and increased the annual funding award allocation to \$8,496,770, for the term effective April 1, 2014 to March 31, 2015 and April 1, 2015 to March 31, 2016, for a total maximum obligation of \$23,350,869, for the grant period of July 1, 2013 through March 31, 2016.

On July 29, 2015, I notified your Board that I was exercising delegated authority to accept Amendment 2, to HCP SA Number 13-20056, which decreased the administrative fee portion of the RWP Part B allocation in the amount of \$665,561, decreasing the maximum obligation from \$8,496,770 to \$7,831,209, for the budget period April 1, 2014 through March 31, 2015.

On June 27, 2016, I notified your Board that I was exercising delegated authority to accept Amendment 3 to the HCP SA Number 13-20056, which decreased the Year 3 RWP Part B allocation in the amount of \$2,135,543, decreasing the maximum obligation from \$8,496,770 to \$6,361,227, for the budget period effective April 1, 2015 through March 31, 2016.

County Counsel has reviewed and approved Exhibit I as to form. SA Number 15-11060 includes provisions requiring the County to indemnify the State for all claims and losses related to this Agreement. This is a standard requirement from the State and cannot be waived or modified.

Attachment A is the Grants Management Statement.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

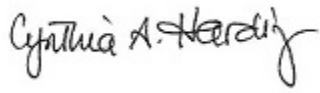
Approval of the recommended actions will allow DPH to accept funds that ensure the continued provision of HIV/AIDS services to eligible County residents who have limited or no medical care coverage, and ensure a continued safety net for those in need of care and support services.

The Honorable Board of Supervisors

10/18/2016

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Respectfully submitted,

A handwritten signature in cursive script that reads "Cynthia A. Harding".

Cynthia A. Harding, M.P.H.

Interim Director

CAH:ac

Enclosures

c: Chief Executive Office
County Counsel
Executive Officer, Board of Supervisors

**Los Angeles County Chief Administrative Office
Grant Management Statement for Grants Exceeding \$100,000**

Department: Public Health – Division of HIV and STD Programs

Grant Project Title and Description:

Ryan White Part B-HIV Care Program (HCP)- HCP services help to minimize new HIV infections, provides support to those living with HIV by providing access to care, treatment, support and prevention services. HCP services also help to reduce HIV/AIDS-related health disparities

Funding Agency:

California Department of Public Health, Office of AIDS

Program (Fed. Grant #State Bill or Code #):

HIV Care Program, Standard Agreement Number 15-11060

Grant Acceptance Deadline:

Not applicable.

Total Amount of Grant Funding: \$18,993,540

County Match Requirements: None

Grant Period Begin Date: 04/01/2016

End Date: 03/31/2019

Number of Personnel Hired Under this Grant: **Full Time:** 42 **Part Time:** 0

Obligations Imposed on the County When the Grant Expires

Will all personnel hired for this program be informed this is a grant funded program? Yes ☒ No ☐

Will all personnel hired for this program be placed on temporary "N" items? Yes ☒ No ☐

Is the County obligated to continue this program after the grant expires Yes ☐ No ☒

If the County is not obligated to continue this program after the grant expires, the Department will:

a). Absorb the program cost without reducing other services Yes ☐ No ☒

b). Identify other revenue sources Yes ☒ No ☐

(Describe) Federal Ryan White Part A CARE Act Funds

c). Eliminate or reduce, as appropriate, positions/program costs funded by this grant Yes ☒ No ☐

Impact of additional personnel on existing space: None

Other requirements not mentioned above: None

Date

Department Head Signature

CCC-307

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

<i>Contractor/Bidder Firm Name (Printed)</i>		<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in the County of</i>	

CONTRACTOR CERTIFICATION CLAUSES

1. **STATEMENT OF COMPLIANCE**: Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

2. **DRUG-FREE WORKPLACE REQUIREMENTS**: Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the

certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lessor of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations,

or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS: For contracts over \$100,000 executed or amended after January 1, 2007, the contractor certifies that contractor is in compliance with Public Contract Code section 10295.3.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

- 1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- 2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

- 1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other governmental entity.

STANDARD AGREEMENT

STD 213 (Rev 06/03)

REGISTRATION NUMBER

AGREEMENT NUMBER

15-11060

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME

(Also referred to as CDPH or the State)

California Department of Public Health

CONTRACTOR'S NAME

(Also referred to as Contractor)

County of Los Angeles

2. The term of this Agreement is: April 1, 2016 through March 31, 2019

3. The maximum amount of this Agreement is: \$ 18,993,540
Eighteen million, nine hundred ninety three thousand, five hundred forty dollars

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of this Agreement.

Exhibit A – Scope of Work	18 pages
Exhibit B – Budget Detail and Payment Provisions	3 pages
Exhibit B, Attachment I – Budget (Year 1- Year 3)	1 page
Exhibit C * – General Terms and Conditions	<u>GTC 610</u>
Exhibit D – Special Terms and Conditions	16 pages
Exhibit E – Additional Provisions	2 pages
Exhibit F – Federal Terms and Conditions	11 pages
Exhibit G – Contract Equipment Purchased with CDPH Funds	2 pages
Exhibit H – Inventory/Disposition of CDPH Funded Equipment	2 pages
Exhibit I – Information Privacy and Security Requirements	9 pages
Exhibit J – Contractor's Release	1 page
Exhibit K – HIV/AIDS Confidentiality Agreement	1 page

Items shown above with an Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto.
These documents can be viewed at <http://www.dgs.ca.gov/ols/Resources/StandardContractLanguage.aspx>.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR

CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.)

County of Los Angeles

BY (Authorized Signature)

DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS

600 S. Commonwealth Avenue, Tenth Floor, Los Angeles, CA 90005

STATE OF CALIFORNIA

AGENCY NAME

California Department of Public Health

BY (Authorized Signature)

DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

Yolanda Murillo, Chief, Contracts Management Unit

ADDRESS

1616 Capitol Avenue, Suite 74.317, MS 1800, PO Box 997377
Sacramento, CA 95899-7377**California Department of
General Services Use Only**

☒ Exempt per: OA Budget Act 2015
AB 93, Chapter 10

Exhibit A
HIV Care Program and Minority AIDS Initiative
Scope of Work

1. Service Overview

The goals of the California Department of Public Health (CDPH), Office of AIDS (OA) are: (1) to minimize new Human Immunodeficiency Virus (HIV) infections; (2) to maximize the number of people with HIV infection who access appropriate care, treatment, support, and prevention services, and (3) reduce HIV/Acquired Immune Deficiency Syndrome (AIDS)-related health disparities. These goals are consistent with the goals of the National HIV/AIDS Strategy. The services required by the HIV Care Program (HCP) and Minority AIDS Initiative (MAI) Scope of Work (SOW) are consistent with, and are designed to support, these goals.

OA utilizes federal Health Resources Services Administration (HRSA) funds to provide support for HIV/AIDS services in local areas. Federal HRSA funds include Part B and MAI funding. HCP and MAI funds are allocated to Contractors based on a formula. The corresponding Catalog of Federal Domestic Assistance (CFDA) Number for Ryan White Part B HIV Care Grant Program is 93.917. More information on the CFDA number is available at www.cfda.gov.

Through this agreement, the Contractor agrees to administer (a) **HCP Core Medical and Support Services** and, if applicable, (b) **MAI Outreach and Treatment Education Services**.

- A. The Contractor agrees to administer HCP and to ensure the provision of the HIV care services as described in this SOW. The Contractor may provide direct client services exclusively or subcontract all or part of the client services. The Contractor ensures that, if all or part of the client services is subcontracted to other client service providers, all services provided by the subcontracted agency will be in accordance with HCP.
- B. If funded, the Contractor agrees to administer the MAI outreach and treatment education services focused on providing access to, and engagement in, medical care for HIV-positive persons of color, including access to AIDS Drug Assistance Program (ADAP), Medi-Cal, or other appropriate drug assistance program. The Contractor may provide direct client services exclusively or subcontract all or part of the client services. The Contractor ensures that, if all or parts of the client services are subcontracted to other client service providers, all services provided by the subcontracted agency will be in accordance with MAI.

2. Service Location

The services shall be performed at applicable locations within the County of Los Angeles.

County of Los Angeles

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**Exhibit A
HIV Care Program and Minority AIDS Initiative
Scope of Work**

3. Service Hours

The services shall be provided during regular business hours, Monday through Friday, except official holidays.

4. Project Representatives

A. The project representatives during the term of this agreement will be:

California Department of Public Health	County of Los Angeles
Office of AIDS Care Operations Unit Brian Hancock, Staff Services Manager I Telephone: (916) 449-5950 Fax: (916) 449-5959 Email: Brian.Hancock@cdph.ca.gov	Elizabeth Escobedo, Grant Manager Telephone: (213) 351-8093 Fax: (213) 381-8023 Email: eescobedo@ph.lacounty.gov

B. Direct all inquiries to:

California Department of Public Health	County of Los Angeles
Office of AIDS Care Operations Unit Attention: Jackie Wilson, Associate Governmental Program Analyst 1616 Capitol Avenue P.O. Box 997426, MS 7700 Sacramento, CA 95899-7426 Telephone: (916) 319-9166 Fax: (916) 449-5959 Email: Jackie.wilson@cdph.ca.gov	Attention: Dave Young, Chief, Financial Services 600 S. Commonwealth Avenue, 10 th Floor Los Angeles, CA 90005 Telephone: (213) 351-8111 Fax: (213) 738-0825 Email: dayoung@ph.lacounty.gov

C. Either party may make changes to the information above by giving written notice to the other party. Said changes shall not require an amendment to this agreement

5. Services to be Performed

Administrative and Fiscal Requirements

A. HCP and MAI Contractors and Subcontractors

The following are administrative and fiscal requirements for HCP and MAI Contractors and subcontractors.

1. Ensure compliance with the federal HRSA Ryan White HIV/AIDS Program grant requirements, policies, and National Monitoring Standards; and OA's HCP and MAI Program and Budget Guidance documents, OA Management

County of Los Angeles

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Exhibit A
HIV Care Program and Minority AIDS Initiative
Scope of Work

Memorandums, AIDS Regional Information and Evaluation System (ARIES) Policy Notices, and other program guidelines issued by OA.

2. Expend at least 95 percent of allocation each contract year per HCP and MAI Management Memorandum 15-08 (see www.cdph.ca.gov/programs/aids/Documents/HCP%20MM%2015-08%20-%2095%20Percent%20Spend%20Down.pdf). Contractors that project to spend less than 95 percent of their overall allocation are required to:
 - a. Submit a reduced HCP/MAI Budget Form no later than September 30th (6 months after the contract year begins) to the HCP/MAI Advisor; and
 - b. Sign an amendment to return funds for redistribution to other contractors.
3. Ensure that administrative costs in HCP and MAI contract budgets do not exceed 10 percent of the total annual contract amount based on Title XXVI of the Public Health Service Act, per HRSA Policy Clarification Notice #15-01 (see www.hab.hrsa.gov/affordablecareact/pcn1501.pdf and HCP and MAI Management Memorandum 15-05 www.cdph.ca.gov/programs/aids/Documents/HCP%20MM%2015-05.pdf).

Administrative (non-direct service) functions include:

- a. Routine contract administration and monitoring activities, including the preparation of applications for these funds, the receipt and disbursement of program funds, the development and establishment of reimbursement and accounting systems, the preparation of routine programmatic and financial reports, and compliance with contract conditions and audit requirements;
- b. All activities associated with the Contractor's subcontract award procedures, including the development of request for proposals, contract proposal review activities, negotiation and awarding of subcontracts, grievance process, monitoring of subcontracts through telephone consultation or onsite visits, reporting on subcontracts and funding reallocation activities.

Please Note: The 10.00% administrative cap applies to total budget amount for both the Contractor and subcontract(s) combined.

4. Administer HCP funds appropriately, maintain records and invoices using standard accounting practices, coordinate federal and state data reporting, and arrange for fiscal audits.
5. Provide budgets and supporting documentation with sufficient detail to document that they do not include unallowable costs or activities.

County of Los Angeles

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Exhibit A
HIV Care Program and Minority AIDS Initiative
Scope of Work

6. Ensure employee duties in approved HCP and MAI budgets match invoices submitted to OA.
7. Ensure that budgets and expenses conform to federal costs principles. Staff must adhere to Office of Management and Budget (OMB) Uniform Guidance: Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Guidance) (see <https://federalregister.gov/a/2013-30465>).
8. Ensure compliance contract Anti-Kickback Statute conditions (42 USC 1320a 7b(b)). Processes and standards must be in place to avoid fraud, waste, and abuse (mismanagement) of HCP funds.
9. Prohibit employees from soliciting or receiving payment in kind or cash for the purchase, lease, ordering, or recommending the purchase, lease, or ordering, of any goods, facility services, or items.
10. Have documentation as required by the Compliance Plan or employee conduct standards that prohibit employees from receiving payments in kind or cash from suppliers and contractors of goods or services.
11. Maintain a current, complete and accurate asset inventory list and depreciation schedule purchased with HCP funds.
12. Ensure no funds are carried over into subsequent contract years.
13. Provide assurances to OA prior to subcontracting with for-profit entities that said entities meet the requirements outlined in HAB's Policy Notice 11-02 (<http://hab.hrsa.gov/manageyourgrant/pinspals/habpl1102.pdf>).
14. Ensure funds are not used on prohibited activities (see <http://hab.hrsa.gov/manageyourgrant/granteebasics.html> and OA's HCP and MAI Program and Budget Guidance documents www.cdph.ca.gov/programs/aids/Pages/tOACareProviders.aspx).
15. Ensure funds are only used to supplement and not supplant existing federal, state, or local funding for HIV testing, Health Insurance Premiums, and cost sharing.
16. Ensure funds are not utilized to make payments for any item or service to the extent payment has been made, or can reasonably be expected to be made, with respect to that item or service:
 - a. Under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or
 - b. By an entity that provides health services on a prepaid basis.

Exhibit A
HIV Care Program and Minority AIDS Initiative
Scope of Work

17. Ensure HCP funds are not used to:
 - a. Pay costs associated with the creation, capitalization, or administration of a liability risk pool (other than those costs paid on behalf of individuals as part of premium contributions to existing liability risk pools), or to pay any amount expended by a State under Title XIX of the Social Security Act.
 - b. Pay for any item or service that can reasonably be expected to be paid under any State Compensation Program, insurance policy, or any Federal or State Health Benefits Program (except for programs related to Indian Health Service and Veterans Health Administration).
 - c. Develop materials, designed to promote or encourage, directly or indirectly, intravenous drug use or sexual activity.
 - d. Purchase or improve (other than minor remodeling) any building or other facility.
 - e. Purchase vehicles without the written approval of OA and HRSA Grants Management Officer (GMO).
 - f. Pay for automobile parts, repairs, or maintenance, pet care or supplies, funeral expenses, construction, etc. as described in HIV/AIDS Branch (HAB) Policy Notice 10-02 regarding Eligible Individuals and Allowable Uses of Funds for Discretely Defined Categories of Services (www.hab.hrsa.gov/manageyourgrant/pinspals/eligible1002.html).
18. When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Ryan White money, the Contractor must clearly state the percentage of the total costs of the program or project which will be financed with Ryan White money, the dollar amount of Ryan White funds for the project or program, and percentage and a dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.
19. Participate in, and allow staff (as appropriate) to participate in, any state-mandated meetings, trainings, webinars, teleconferences, workshops, and/or other conferences to be determined.
20. Ensure responses to OA's drills or request for information are accurate, complete and received on or before the required response date.
21. Commit to submitting data in an accurate and timely fashion, including committing to full participation in any evaluation or research component.

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22. Cooperate with the Centers for Disease Control and Prevention's (CDC) Medical Monitoring Project as requested.
23. Cooperate with any State or Federal investigation or audit regarding the Ryan White program funds.
24. Ensure the protection of the client's privacy and confidentiality at all times as required by California and federal laws (including, without limitation, Health and Safety Code sections 120980, 121022 and 121025). Contractor and its employees (and the employees of any subcontractor as well) who will have access to confidential public health information shall be required to sign Agreement by Employee/Contractor to Comply with Confidentiality Requirements (Form CDPH 8689) each year prior to being given access to the confidential information, as required by Health and Safety Code section 121022(f) (See Exhibit K attached to this contract). In addition, federal law requires that individuals have a right of access, to inspect, and obtain a copy of their Protected Health Information (PHI) in a designated record set, for as long as the health information is maintained by a CDPH health plan, CDPH providers, or business associates. There are limited exceptions to an individual's right of access PHI (45 C.F. R. s 164.524).
25. In addition to the procedures set forth in the Information Privacy and Security Requirements (See Exhibit I attached to this contract), Contractors must ensure that all computers, including mobile devices, are equipped with encryption software, even if the Contractor or their subcontracted agencies do not store confidential information on equipment.

The following applies to HCP Contractors and Subcontractors only:

26. Ensure that client service providers who provide Medi-Cal/Denti-Cal reimbursable services are certified as providers for purposes of Medi-Cal/Denti-Cal billing (see www.medi-cal.ca.gov) and have the ability to bill other third-party payers for covered services, or able to document efforts under way to obtain such certification.
27. Assure billing and collection from third party payers, including Medi-Cal, Denti-Cal, and Medicare, which should be invoiced first, as appropriate, to ensure Ryan White is the payer of last resort.
28. Maximize and monitor third party reimbursements. Establish and maintain medical practice management systems for billing. Report program income documented by charges, collections, and adjustment reports or by the application of a revenue allocation formula.

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29. Establish a process for obtaining and documenting client charges and payments through an accounting system manually, electronically, or by a revenue allocation formula. Staff must be aware of and consistently follow the process.
30. Have a written policy that discourages the use of two charge masters, one for self-pay clients and a higher one for insurance companies.

B. HCP and MAI Contractors Risk Assessment of Subcontractors

The following are risk assessment requirements for HCP and MAI Contractors that have subcontractors.

1. Ensure that any subcontracted agencies have the organizational and administrative capabilities to support the program services and activities. The Contractor is responsible for quality assurance and utilization review activities for subcontracted HIV care services.
2. Ensure that any subcontracted agencies have appropriate facilities and resources, including an adequate physical plant and appropriate supplies and equipment available for the provision of services and practical support functions.
3. Ensure the HCP funds do not comprise the majority of any subcontracted agency's total budget. HCP funds are intended to provide additional funding to those areas negatively affected by HIV disease and cannot be used to supplant local HIV-related budgets.
4. Comply with the State's timeline to submit to the State a list identifying the names and budget overview of all service provision and subcontracted agencies and total funds available to each Client Service Provider. OA's HIV Care Section will provide the required forms to complete the budget overview and all service provision information. These forms are located on the OA website at www.cdph.ca.gov/programs/aids/Pages/HCPForms.aspx.
5. Ensure subcontractor agreement(s) comply with all federal and state statutes, regulations, terms, and conditions. Subcontractor agreements shall comply with OMB Uniform Guidance: Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Guidance) (see <https://federalregister.gov/a/2013-30465>).
6. Maintain a file with signed subcontractor agreement(s), including performance start and end dates, subcontractor Data Universal Number System (DUNS) Number, assurances, and/or certification that specify unallowable activities.
7. Ensure that subcontractor budgets and expenditures do not include unallowable costs or activities.

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8. Ensure all approved subcontracted agency invoices are paid within 30 days of receipt.
9. Conduct the following monitoring activities:
 - a. Conduct site visits and document/monitor the activities of subcontracted agencies to ensure contractual compliance not less than once every year. For all deficiencies cited in the contractor's monitoring report, develop a corrective plan, submit to the State for approval, and implement the plan.
 - b. Provide any necessary assistance to the State in carrying out State monitoring activities and inspection rights for both contractors and subcontracted agencies, as provided in this agreement.
 - c. Make available to authorized State and/or federal representatives all records, financial and programmatic reports, materials, data information, and appropriate staff required for monitoring, audit, or inspection activities.
 - d. For all deficiencies cited in the State's monitoring report, develop a corrective plan, submit to the State for approval, and implement the plan. Provide the corrective plan to the State within 30 days of receipt of the monitoring report.

The following applies to HCP Contractors only:

10. Monitor tracking system of the receipt and use of third party payments by subcontractors.

Service Requirements

A. HCP and MAI Contractors and Subcontractors

The following are service requirements for HCP and MAI Contractors and subcontractors.

1. Ensure that services provided under this contract are in accordance with the service category definitions, national monitoring standards, and policy notices issued by HRSA, HAB (see <http://hab.hrsa.gov/manageyourgrant/granteebasics.html>) and OA's *HCP and MAI Program Guidance* (see www.cdph.ca.gov/programs/aids/Pages/tOACareProviders.aspx).
2. Ensure HIV care services are provided in a setting that is accessible to low-income individuals with HIV disease. Facilities must also be accessible for hearing-, vision-, and mobility-impaired persons in accordance with the federal Americans with Disabilities Act (ADA).

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3. Take steps to ensure people with limited English proficiency can meaningfully access health and social services. Detailed information on the specific responsibilities of Contractors regarding linguistic competence is available on the Office of Civil Rights (OCR) website at www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/index.html.
4. Coordinate with state and federal programs to low-income individuals with HIV to ensure such individuals are aware of the services available under Ryan White Part B.
5. To the maximum extent practical, ensure that HIV-related health care and support services delivered pursuant to a program established with assistance provided under Ryan White Part B will be provided without regard to the immigration status, ability to pay, and current or past health condition of the individual with HIV disease.
6. Maintain documentation of written referral relationships with entities considered key points of access to healthcare systems for the purpose of facilitating early intervention services for individuals diagnosed as being HIV positive.
 - a. Work with consortia, service providers, and individuals with HIV/AIDS to identify key points of entry.
 - b. Monitor the use of referral and linkage agreements by funded service providers.
7. Contractors required to complete Early Identification of Individuals with HIV/AIDS (EIIHA) Plans will comply with OA Management Memorandum 15-04 (see www.cdph.ca.gov/programs/aids/Documents/HCP%20MM%2015-04.pdf) to ensure clients diagnosed with HIV are rapidly linked to care or referred to preventive services, if negative.
8. Work with local planning council or other HIV planning group to improve linkages to care and strengthen the continuum of care. Additionally, if Contractor decides to amend contract by adding or reducing budget amount, then the contractor must involve an HIV planning or advisory body in the decision-making process.
9. Ensure HCP funds are not used to:
 - a. Make cash payments to intended recipients of services.
 - b. Develop, promote, or advertise about HIV services that target the general public.
 - c. Generate broad scope awareness activities about HIV services that target the general public.

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- d. Support employment, vocational, or employment-readiness services.

B. HCP Services

The HIV core medical and support care services must be provided under specific HRSA-defined service categories. Grantees must ensure that RWHAP Part B services are provided within the scope of the service category definitions provided by HRSA/HAB, which can be found in the Ryan White Services Report (RSR) Instructions available online (see <https://careacttarget.org/library/ryan-white-hiv-aids-program-services-report-rsr-instruction-manual>). Additional information can be found in the OA's *HCP and MAI Program Guidance* on the OA website at www.cdph.ca.gov/programs/aids/Pages/tOACareProviders.aspx.

Core medical services are a set of essential, direct health care services provided to Ryan White clients who are HIV-positive or HIV-indeterminate (infants <2 years only), with one exception. HIV-negative clients may receive HIV counseling and testing services under Early Intervention Services. The Ryan White HIV/AIDS Program legislation specifies that the following 13 core medical services are allowable.

- Outpatient/ambulatory medical care
- AIDS Drug Assistance Program treatments
- Local AIDS pharmaceutical assistance
- Oral health care
- Early intervention services
- Health insurance premium and cost-sharing assistance
- Home health care
- Medical nutrition therapy
- Hospice services
- Home and community-based health services
- Mental health services
- Substance abuse services (outpatient)
- Medical case management, including treatment adherence services.

Support services are a set of services needed to achieve medical outcomes that affect the HIV-related clinical status of a person living with HIV/AIDS. Support services may be provided to HIV-positive and HIV indeterminate clients (infants <2 years only) as needed. Support services may also be provided to HIV-affected clients. HIV-affected clients include family members or partners of an HIV-positive client. The services provided to HIV-affected clients must always support a medical outcome for the HIV-positive client or HIV-indeterminate client (infants <2 years only). The Ryan White HIV/AIDS Program legislation specifies that the following 16 support services are allowable.

- Case management (non-medical)
- Child care services

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- Emergency financial assistance
- Food bank/home-delivered meals
- Health education/risk reduction
- Housing services
- Legal services
- Linguistics services (interpretation and translation)
- Medical transportation services
- Outreach services
- Psychosocial support services
- Referral for health care/supportive services
- Rehabilitation services
- Respite care
- Substance abuse services (residential)
- Treatment adherence counseling

HCP Contractors, who provide HCP services directly and/or subcontract with HCP service providers, shall ensure the following HCP service requirements are met.

1. Develop and implement a comprehensive system of care and support services that actively engages individuals who know their HIV status but are not accessing services, that reaches out to people who are HIV positive but unaware of their HIV status, and that is coordinated and integrated with other service delivery systems as appropriate.
2. Ensure comprehensive, ongoing medical services to individuals with HIV/AIDS. Services must be based on HRSA Core Medical Services, which include the HRSA service category, Outpatient/Ambulatory Medical Care, or, if these services are not funded by HCP, the Contractor must document the availability of primary medical care for HIV-positive persons in the service area.
3. For contractors that are Local Health Departments, ensure the existence of a local health care system that provides a safety net of care for all people living with HIV/AIDS in the jurisdiction; and demonstrate coordination with local and statewide HIV surveillance activities.
4. Develop and maintain working relationships, and coordinate an integrated system of service delivery, with entities who provide key points of entry into medical care, including but not limited to emergency rooms, substance abuse treatment programs, detoxification centers, adult and juvenile detention facilities, California Department of Corrections and Rehabilitation, Transitional Case Management Program (TCMP) for incarcerated populations, Sexually Transmitted Disease (STD) clinics and Disease Investigative Specialists, HIV counseling and testing sites, ADAP enrollment sites, Partner Services, mental health programs, homeless shelters, health care points of entry specified by the State, federally qualified health centers, migrant health centers, community

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health centers, health services for the homeless, family planning grantees, blood banks, and non-profit and for profit private entities that provide comprehensive primary care services to populations at risk for HIV. The coordinated, integrated system of care must be informed by HIV epidemiological data and other data sources and should include leveraged resources. The Contractor shall keep documentation of these working relationships.

5. Funded service providers should integrate, and work collaboratively, with other such services and coordinate with other available programs (including Medi-Cal), to ensure continuity of care and prevention services of individuals with HIV is enhanced.
6. Convene an advisory and/or focus groups at least **annually** to provide input to the Contractor on issues such as needs assessment, service delivery plans, and comprehensive planning. The Contractor shall maintain minutes and/or documentation of the advisory or focus group meetings.

The advisory and/or focus group, should be made up of representatives from state, federal, and local programs that provide health services and education and prevention services; non-profit and for-profit community-based agencies; staff from other key points of entry into medical care, who either provide services to individuals with HIV/AIDS, or who may have contact with HIV positive individuals who are not in care or not aware of their HIV status; individuals with HIV, consumers, and advocates, etc. The advisory group provides information to the Contractor regarding health services delivery and the needs of individuals with HIV/AIDS living within the community.

If consumer representation is not available for an advisory/focus group, then a venue (e.g., survey, focus group) must be provided to identify consumer concerns and feedback that will be used for planning purposes.

7. Conduct assessment of HIV/AIDS service needs for the geographic service area at least once every three years. Review and update the assessment annually, if needed. For Contractors who are:
 - a. Non-Part A grantees ensure that no more than five percent (5%) of the allocation is utilized to plan, conduct, and evaluate the needs assessment process. Needs assessment activities may not be billed to OA more than once during a three-year contract period. A Service Delivery Plan based on the needs assessment must be submitted to OA.
 - b. Part A grantees, the assessment and planning costs should be budgeted under the Part A award. A Comprehensive Plan must be submitted to OA, rather than the Service Delivery Plan, unless the Part A grantee is collaborating with OA on the statewide integrated plan and needs assessment.

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8. Ensure documentation of all services is maintained and made available for review, as requested for monitoring and auditing purposes.
9. Ensure services are responsive to the needs of the clients in the service area, are sensitive to linguistic, ethnic, and cultural differences of the population(s) being served, and that services are linguistically and culturally appropriate.
10. Ensure that rural case management services link available community support services to specialized HIV medical services.
11. Contractors providing oral health services will define and specify the limitations or caps on providing oral health services.
12. Ensure that HCP funds are used to support syringe exchange programs only if and when OA approves their use.
13. Work collaboratively with the Partner Services Coordinator in the local health department and develop procedures to ensure that Partner Services is available for the appropriate HCP clients, per HCP Management Memorandum 15-06 (see www.cdph.ca.gov/programs/aids/Documents/HCPMM15-06PartnerServices.pdf).
14. Comply with HRSA Policy Clarification Notice #13-04 and OA's Management Memorandum 14-01 regarding pursuit of enrollment with clients who are eligible for comprehensive health care coverage (see www.hab.hrsa.gov/manageyourgrant/pinspals/pcn1304privateinsurance.pdf and www.cdph.ca.gov/programs/aids/Documents/RW%20Part%20B%20MM%2014-01_082014.pdf). Screening and reassessment of client eligibility must be completed and documented every six months to determine continued eligibility for Ryan White services.

Please Note: OA encourages Contractors to use the Medi-Cal eligibility determination documentation from the Automated Eligibility Verification System (AEVS) for HCP eligibility/recertification for those clients on Medi-Cal. This document will validate address, income (under 138% Federal Poverty Level) and insurance. Contractors must continue to screen for payer of last resort prior to providing services.

15. Ensure that eligibility policies do not deem a veteran living with HIV ineligible for Ryan White services due to eligibility for Department of Veterans Affairs (VA) health care benefits. All policies and procedures regarding veterans must adhere to HRSA Policy Notice 16-01 (see <http://hab.hrsa.gov/affordablecareact/clarificationservicesveterans.pdf>).
16. Ensure that eligibility policies do not deem an American Indian or Alaskan Native living with HIV as ineligible for Ryan white services due to eligibility to receive the

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same services from the Indian Health Services (IHS), regardless of whether or not those IHS services are available and accessible. All policies and procedures regarding American Indians or Alaskan Natives must adhere to HRSA Policy Notice 07-01 (see <http://hab.hrsa.gov/manageyourgrant/pinspals/indiansnatives0701.html>).

17. Ensure and document that all staff involved in eligibility determination have participated in required training.
18. Annually evaluate the cost-effectiveness of the mechanisms used to deliver comprehensive care.
19. Comply with HCP Management Memo 14-02 regarding using Ryan White funds for services partially covered by Medi-Cal, Denti-Cal, private insurance or other eligible benefits (see www.cdph.ca.gov/programs/aids/Documents/HCP%20MM%2014-02.pdf).
20. Ensure compliance with the following requirements regarding imposition of charges for services, for those providers who charge for services:
 - a. In the case of individuals with an income less than or equal to one hundred percent (100%) of federal poverty guidelines (FPG) (see www.aspe.hhs.gov/poverty), the provider will not impose charges on any such individual for the provision of services under the contract.
 - b. In the case of individuals with an income greater than one hundred percent (100%) of the FPG, the provider:
 - i. Will impose charges on each such individual for the provision of such services; and
 - ii. Will impose charges according to a schedule of charges that is made available to the public.
 - c. In the case of individuals with an income between the FPG in Columns A and B (see table below), the provider will not, for any calendar year, impose charges exceeding the percentage in Column C of the client's annual gross income:

Column A: Client's income is greater than	Column B: Client's income does not exceed	Column C: Charges are not to exceed
100% of FPG	200% of FPG	5% of the client's annual gross income
200% of FPG	300% of FPG	7% of the client's annual gross income
300% of FPG	--	10% of the client's annual gross income

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C. MAI Services

The goal of MAI is to increase access to, and engagement in, HIV/AIDS medical care for HIV-positive persons of color, including access to ADAP, Medi-Cal, or other appropriate drug assistance program. This is achieved by providing outreach and treatment education services to HIV-positive persons of color who have never been in care, or who have been lost to care. Additional information can be found in the OA's *HCP and MAI Program Guidance* on the OA website at www.cdph.ca.gov/programs/aids/Pages/tOACareProviders.aspx.

In accordance with HRSA guidance, outreach services and treatment education are the only allowable service categories for MAI funding. These service categories are designed to meet the needs of persons of color in order to ensure that minority clients can access, engage in, and remain in care and treatment; receive help in adhering to treatment; and be provided with education and support that will enable them to become active participants in their own health care and improve their overall quality of life. MAI outreach and treatment education services are defined as follows:

Outreach – Those activities typically performed by an outreach worker that results in: (1) Identifying HIV-positive persons of color who know their status but have never been in care or who have been lost to HIV medical care; (2) Removing barriers that have prevented access to HIV medical care, and (3) Establishing engagement in HIV medical care. Outreach services should be conducted at times and in places where there is a high probability that persons of color with HIV infection will be reached.

MAI outreach services do not include routine HIV counseling and testing or HIV prevention education. These services may be provided on a case-by-case basis for a specific MAI client only when the service is necessary to remove a barrier to care for that client.

Treatment Education - The provision of health education, treatment adherence and risk reduction information to HIV-positive persons of color who know their HIV status but are not accessing medical care or to HIV-positive persons of color who are lost to care. Information includes educating clients living with HIV about how to communicate with medical providers, the importance of treatment adherence, how to manage medication side effects, how to understand their laboratory results, how to improve their health status, how to reduce HIV transmission, and identify medical and psychosocial support services and counseling that are available locally.

MAI Contractors, who provide MAI services directly and/or subcontract with MAI service providers, shall ensure the following MAI service requirements are met.

1. Employ MAI outreach staff or support other activities to identify HIV-positive persons of color who are out-of-care or lost-to-care and gradually engage them in appropriate HIV care and treatment services. Priority populations are those out-

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of-care, HIV-positive persons of color who have been unable or unwilling to access services for HIV, despite an awareness of their positive serostatus. As a member of the MAI team, the outreach staff person will take actions to reduce or eliminate any cultural or other barriers that prevent access to and/or continued engagement in HIV care services.

- a. It is strongly recommended that MAI outreach staff be culturally and linguistically competent “street-level” workers who reflect the communities they serve. Highly recommended is experience in two or three of the following areas: street-based outreach, HIV counseling and testing, health education or HIV case management.
 - b. MAI outreach staff are to take actions to reduce or eliminate any cultural or other barriers that prevent access to and/or continued engagement in care and treatment services. This individual links and supports the client in accessing suitable HIV care and treatment services.
 - c. In lieu of outreach positions, MAI funds can also support outreach/treatment education activities or interventions for HIV-positive persons of color, as determined at the local level and approved by OA.
2. Provide services that identify and engage HIV-positive persons of color who know their HIV status but are not accessing medical care, to reach out to persons of color who are HIV-positive but unaware of their HIV status, and/or to locate and reestablish access for HIV-positive persons of color who have been lost to care.
 3. Work with existing community resources and entities that serve as key points of entry into medical care, including but not limited to emergency rooms, substance abuse treatment programs, TCMP for those individuals released from state correctional institutions, detoxification centers, adult and juvenile detention facilities, STD clinics, HIV counseling and testing sites, mental health programs, homeless shelters, Federal Qualified Health Centers, migrant health centers, Indian Health Services clinics, Black Infant Health Programs, etc. to coordinate and integrate HIV care service delivery.
 4. Plan and deliver MAI outreach and treatment education services in coordination with local HIV prevention outreach programs and other HIV services providers to avoid duplication of effort.
 5. Coordinate MAI planning efforts with all other local funding streams for HIV/AIDS to ensure that HCP funds are the payer of last resort, maximize education and outreach efforts to link individuals to ADAP and other appropriate program, and reduce any duplication.

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6. Ensure MAI clients have access to, and are enrolled in, ADAP, Medi-Cal, or other appropriate program(s) providing HIV medications.

Reporting and Data Collection Requirements

A. Progress Reports

1. HCP and MAI Contractors are required to submit a Mid-Year Progress Report and an Annual Progress Report for each contract year. The Progress Report is an opportunity for the Contractor to describe their HCP and MAI programs, services provided, progress and accomplishments, and to identify any problems or technical assistance needs, as well as those of their subcontractors.
2. The HCP and MAI Progress Reports are due to OA according to the following schedule:

Report	Reporting Period	Due Date
Mid-Year Progress Report	April 1 – September 30	November 15
Annual Progress Report	October 1 – March 31	May 15

3. The HCP and MAI Progress Report Forms are available on the OA website at www.cdph.ca.gov/programs/aids/Pages/HCPForms.aspx.

B. Data Collection

1. The HCP Contractor shall ensure that HCP client service providers meet the following data collection requirements.
 - a. Collect the HCP minimum data set. The HCP minimum dataset includes data elements required by (a) HRSA to complete the Ryan White Program Service Report (RSR), selected HAB Quality Management (QM) indicators, and the Women, Infants, Children, and Youth Report, and (b) OA for its development of reports, statistical tables, and program evaluations.
 - b. Directly enter data into ARIES within two weeks from a client's date of service. Client service providers may import data into ARIES from other data collection systems only if they obtain prior written approval from OA (see ARIES Policy Notice G3 at <http://www.cdph.ca.gov/programs/aids/Documents/APN-G3.pdf>).
 - c. Electronically submit the RSR through HAB's RSR Web Application System. The RSR is comprised of two reports: (1) the Provider Report and (2) the Client Report. The Client Report contains an XML file with their client-level data on Ryan White-funded clients and services regardless of payor source. Client service providers must submit their completed RSR to the RSR Web Application System by February 19 each year. The RSR reporting period is

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January 1 through December 31 of the previous year. Client service providers must check the RSR Web Application System until notified that their RSR has been successfully submitted to HRSA. Client service providers may be contacted by OA to resolve any data quality problems (e.g., missing data) with their RSRs.

2. The MAI Contractor shall ensure that MAI client service providers meet the following data collection requirements.
 - a. Collect the data elements identified on the ARIES Data Collection Guidelines for State-Funded Minority AIDS Initiative (MAI) Providers and enter them into ARIES.
 - b. Directly enter data into ARIES Outreach Services Module within two weeks from a client's date of service.

Clinical Quality Management Requirements

- A. HCP and MAI Contractors are required to have a Clinical Quality Management (CQM) Plan and to ensure that all service providers have a CQM process in place to increase the percentage of persons with diagnosed HIV infection in their service area who are virally suppressed to at least 80 percent. CQM plans must be submitted to OA on an annual basis before the end of the first quarter (June 30).
- B. HCP Contractors and client service providers shall run the HAB QM Indicator Report on Viral Load Suppression in ARIES quarterly. They shall assess the reports to determine which clients are not virally suppressed, develop a strategy using CQM tools to ensure clients are virally suppressed, and then follow up with clients to ensure that they achieve viral suppression.
- C. HCP Contractors will report on their progress toward meeting the viral load suppression indicator in their mid-year and annual progress report.
- D. HCP and MAI Contractors will ensure that peer review will be conducted to assess the quality and appropriateness of health and support services.

Exhibit B
Budget Detail and Payment Provisions

1. Invoicing and Payment

- A. In no event shall the Contractor request reimbursement from the State for obligations entered into or for costs incurred prior to the commencement date or after the expiration of this Agreement.
- B. For services satisfactorily rendered, and upon receipt and approval of the invoices, the State agrees to compensate the Contractor for actual expenditures incurred in accordance with the Budget Line Items amounts specified in Attachment I, of this Exhibit.
- C. Invoices shall include the Agreement Number and shall be submitted not more frequently than monthly in arrears. Each invoice for the quarter shall be submitted for payment no more than forty-five (45) calendar days following the close of each quarter, unless an alternate deadline is agreed to in writing by the program contract manager. Direct all inquiries to:

Invoice Desk
California Department of Public Health
Office of AIDS
MS 7700
1616 Capitol Avenue, Suite 616
Sacramento, CA 95899--7426

- D. Invoices shall:
 - 1) Submit on Contractor letterhead and signed by an authorized representative, certifying that the expenditures claimed represent actual expenses for the service performed under this contract.
 - 2) Identify contract agreement number.
 - 3) Identify the billing and/or performance period covered by the invoice.
 - 4) Itemize costs for the billing period in the same or greater level of detail as indicated in this agreement. Subject to the terms of this agreement, reimbursement may only be sought for those costs and/or cost categories expressly identified as allowable in this agreement and approved by CDPH.

E. Amounts Payable

The amounts payable under this agreement shall not exceed:

- 1) \$2,000,000 for the budget period of 04/01/16 through 3/31/17.
- 2) \$8,496,770 for the budget period of 04/01/17 through 3/31/18.
- 3) \$8,496,770 for the budget period of 04/01/18 through 3/31/19.

2. Budget Contingency Clause

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.

Exhibit B
Budget Detail and Payment Provisions

- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to Contractor to reflect the reduced amount.

3. Prompt Payment Clause

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

4. Timely Submission of Final Invoice

- A. A final undisputed invoice shall be submitted for payment no more than *sixty (60)* calendar days following the expiration or termination date of this agreement, unless a later or alternate deadline is agreed to in writing by the program contract manager. Said invoice should be clearly marked "Final Invoice", indicating that all payment obligations of the State under this agreement have ceased and that no further payments are due or outstanding. The State may, at its discretion, choose not to honor any delinquent final invoice if the Contractor fails to obtain prior written State approval of an alternate final invoice submission deadline.
- B. The Contractor is hereby advised of its obligation to submit to the state, with the final invoice, a completed copy of the "**Contractor's Release (Exhibit K)**".

5. Allowable Line Item Shifts

- A. Subject to the prior review and approval of the State, line item shifts of up to fifteen percent (15%) of the annual contract total, not to exceed a maximum of one hundred thousand (\$100,000) annually are allowed, so long as the annual agreement total neither increases nor decreases.
- B. The \$100,000 maximum limit shall be assessed annually and automatically adjusted by the State in accordance with cost-of-living indexes. Said adjustments shall not require a formal agreement amendment. The State shall annually inform the Contractor in writing of the adjusted maximum.
- C. Line item shifts meeting this criteria shall not require a formal agreement amendment.
- D. The Contractor shall adhere to State requirements regarding the process requesting approval to line item shifts.
- E. Line item shifts may be proposed/requested by either the State or the Contractor.

6. Expense Allowability / Fiscal Documentation

- A. Invoices, received from the Contractor and accepted for payment by the State, shall not be deemed evidence of allowable agreement costs.
- B. Contractor shall maintain for review and audit and supply to CDPH upon request, adequate documentation of all expenses claimed pursuant to this agreement to permit a determination of expense allowability.

Exhibit B
Budget Detail and Payment Provisions

- C. If the allowability of an expense cannot be determined by the State because invoice detail, fiscal records, or backup documentation is nonexistent or inadequate according to generally accepted accounting principles or practices, all questionable costs may be disallowed and payment may be withheld by the State. Upon receipt of adequate documentation supporting a disallowed or questionable expense, reimbursement may resume for the amount substantiated and deemed allowable.

7. Recovery of Overpayments

- A. Contractor agrees that claims based upon the terms of this agreement or an audit finding and/or an audit finding that is appealed and upheld, will be recovered by the State by one of the following options:
- 1) Contractor's remittance to the State of the full amount of the audit exception within 30 days following the State's request for repayment;
 - 2) A repayment schedule agreeable between the State and the Contractor.
- B. The State reserves the right to select which option as indicated above in paragraph A will be employed and the Contractor will be notified by the State in writing of the claim procedure to be utilized.
- C. Interest on the unpaid balance of the audit finding or debt will accrue at a rate equal to the monthly average of the rate received on investments in the Pooled Money Investment Fund commencing on the date that an audit or examination finding is mailed to the Contractor, beginning 30 days after Contractor's receipt of the State's demand for repayment.
- D. If the Contractor has filed a valid appeal regarding the report of audit findings, recovery of the overpayments will be deferred until a final administrative decision on the appeal has been reached. If the Contractor loses the final administrative appeal, Contractor shall repay, to the State, the over-claimed or disallowed expenses, plus accrued interest. Interest accrues from the Contractor's first receipt of State's notice requesting reimbursement of questioned audit costs or disallowed expenses.

8. Travel and Per Diem Reimbursement

Any reimbursement for necessary travel and per diem shall, unless otherwise specified in this Agreement, be at the rates currently in effect, as established by the California Department of Human Resources (Cal HR). If the Cal HR rates change during the term of the Agreement, the new rates shall apply upon their effective date and no amendment to this Agreement shall be necessary. No travel outside the state of California shall be reimbursed without prior authorization from the CDPH. Verbal authorization should be confirmed in writing. Written authorization may be in a form including fax or email confirmation.

Exhibit D
Special Terms and Conditions
(Rev 6/16)

(For Cooperative Agreement in accordance with HSC 38070)

The provisions herein apply to this Agreement unless the provisions are removed by reference, the provisions are superseded by an alternate provision appearing elsewhere in this Agreement, or the applicable conditions do not exist.

Index of Special Terms and Conditions

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1. Procurement Rules

(Applicable to all agreements in which equipment, property, commodities and/or supplies are furnished by CDPH or expenses for said items are reimbursed with state or federal funds.)

a. Equipment definitions

Wherever the term equipment /property is used, the following definitions shall apply:

- (1) **Major equipment/property:** A tangible or intangible item having a base unit cost of **\$5,000 or more** with a life expectancy of one (1) year or more and is either furnished by CDPH or the cost is reimbursed through this Agreement. Software and videos are examples of intangible items that meet this definition.
- (2) **Minor equipment/property:** A tangible item having a base unit cost of **less than \$5,000** with a life expectancy of one (1) year or more and is either furnished by CDPH or the cost is reimbursed through this Agreement.

- b. **Government and public entities** (including state colleges/universities and auxiliary organizations), whether acting as a contractor, may secure all commodities, supplies, equipment and services related to such purchases that are required in performance of this Agreement. Said procurements are subject to Paragraphs d through g of this provision. Paragraph c of this provision shall also apply, if equipment purchases are delegated to subcontractors that are nonprofit organizations or commercial businesses.
- c. **Nonprofit organizations and commercial businesses**, whether acting as a contractor and/or subcontractor, may secure commodities, supplies, equipment and services related to such purchases for performance under this Agreement.

- (1) Equipment purchases shall not exceed \$50,000 annually.

To secure equipment above the annual maximum limit of \$50,000, the Contractor shall make arrangements through the appropriate CDPH Program Contract Manager, to have all remaining equipment purchased through CDPH's Purchasing Unit. The cost of equipment purchased by or through CDPH shall be deducted from the funds available in this Agreement. Contractor shall submit to the CDPH Program Contract Manager a list of equipment specifications for those items that the State must procure. The State may pay the vendor directly for such arranged equipment purchases and title to the equipment will remain with CDPH. The equipment will be delivered to the Contractor's address, as stated on the face of the Agreement, unless the Contractor notifies the CDPH Program Contract Manager, in writing, of an alternate delivery address.

- (2) All equipment purchases are subject to paragraphs d through g of this provision. Paragraph b of this provision shall also apply, if equipment purchases are delegated to subcontractors that are either a government or public entity.
- (3) Nonprofit organizations and commercial businesses, shall use a procurement system that meets the following standards:
 - (a) Maintain a code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in awarding procurement contracts. No employee,

officer, or agent shall participate in the selection, award, or administration of a procurement, or bid contract in which, to his or her knowledge, he or she has a financial interest.

- (b) Procurements shall be conducted in a manner that provides, to the maximum extent practical, open, and free competition.
- (c) Procurements shall be conducted in a manner that provides for all of the following:
 - [1] Avoid purchasing unnecessary or duplicate items.
 - [2] Equipment solicitations shall be based upon a clear and accurate description of the technical requirements of the goods to be procured.
 - [3] Take positive steps to utilize small and veteran owned businesses.
- d. Unless waived or otherwise stipulated in writing by CDPH, prior written authorization from the appropriate CDPH Program Contract Manager will be required before the Contractor will be reimbursed for any purchase **exceeding** \$5,000 or more for commodities, supplies, equipment, and services related to such purchases. The Contractor must provide in its request for authorization all particulars necessary, as specified by CDPH, for evaluating the necessity or desirability of incurring such costs. The term "purchase" excludes the purchase of services from a subcontractor and public utility services at rates established for uniform applicability to the general public.
- e. In special circumstances, determined by CDPH (e.g., when CDPH has a need to monitor certain purchases, etc.), CDPH may require prior written authorization and/or the submission of paid vendor receipts for any purchase, regardless of dollar amount. CDPH reserves the right to either deny claims for reimbursement or to request repayment for any Contractor purchase that CDPH determines to be unnecessary in carrying out performance under this Agreement.
- f. The Contractor must maintain a copy or narrative description of the procurement system, guidelines, rules, or regulations that will be used to make purchases under this Agreement. The State reserves the right to request a copy of these documents and to inspect the purchasing practices of the Contractor at any time.
- g. For all purchases, the Contractor must maintain copies of all paid vendor invoices, documents, bids and other information used in vendor selection, for inspection or audit. Justifications supporting the absence of bidding (i.e., sole source purchases) shall also be maintained on file by the Contractor for inspection or audit.

2. Equipment Ownership / Inventory / Disposition

(Applicable to agreements in which equipment and/or property is furnished by CDPH and/or when said items are purchased or reimbursed with state)

- a. Wherever the terms equipment and/or property are used in this provision, the definitions in provision 1, paragraph a., shall apply.

Unless otherwise stipulated in this Agreement, all equipment and/or property that are purchased/reimbursed with agreement funds or furnished by CDPH under the terms of this Agreement shall be considered state equipment and the property of CDPH.

- (1) CDPH requires the reporting, tagging and annual inventorying of all equipment and/or property that is furnished by CDPH or purchased/reimbursed with funds provided through this Agreement.

Upon receipt of equipment and/or property, the Contractor shall report the receipt to the CDPH Program Contract Manager. To report the receipt of said items and to receive property tags, Contractor shall use a form or format designated by CDPH's Asset Management Unit. If the appropriate form (i.e., Contractor Equipment Purchased with CDPH Funds) does not accompany this Agreement, Contractor shall request a copy from the CDPH Program Contract Manager.

- (2) If the Contractor enters into an agreement with a term of more than twelve months, the Contractor shall submit an annual inventory of state equipment and/or property to the CDPH Program Contract Manager using a form or format designated by CDPH's Asset Management Unit. If an inventory report form (i.e., Inventory/Disposition of CDPH-Funded Equipment) does not accompany this Agreement, Contractor shall request a copy from the CDPH Program Contract Manager. Contractor shall:

- (a) Include in the inventory report, equipment and/or property in the Contractor's possession and/or in the possession of a subcontractor (including independent consultants).
 - (b) Submit the inventory report to CDPH according to the instructions appearing on the inventory form or issued by the CDPH Program Contract Manager.
 - (c) Contact the CDPH Program Contract Manager to learn how to remove, trade-in, sell, transfer or survey off, from the inventory report, expired equipment and/or property that is no longer wanted, usable or has passed its life expectancy. Instructions will be supplied by CDPH's Asset Management Unit.
- b. Title to state equipment and/or property shall not be affected by its incorporation or attachment to any property not owned by the State.
 - c. Unless otherwise stipulated, CDPH shall be under no obligation to pay the cost of restoration, or rehabilitation of the Contractor's and/or Subcontractor's facility which may be affected by the removal of any state equipment and/or property.
 - d. The Contractor shall maintain and administer a sound business program for ensuring the proper use, maintenance, repair, protection, insurance and preservation of state equipment and/or property.
- (1) In administering this provision, CDPH may require the Contractor to repair or replace, to CDPH's satisfaction, any damaged, lost or stolen state equipment and/or property. Contractor shall immediately file a theft report with the appropriate police agency or the California Highway Patrol and Contractor shall promptly submit one copy of the theft report to the CDPH Program Contract Manager.
- e. Unless otherwise stipulated by the program funding this Agreement, equipment and/or property purchased/reimbursed with agreement funds or furnished by CDPH under the terms of this Agreement, shall only be used for performance of this Agreement or another CDPH agreement.
 - f. Within sixty (60) calendar days prior to the termination or end of this Agreement, the Contractor

shall provide a final inventory report of equipment and/or property to the CDPH Program Contract Manager and shall, at that time, query CDPH as to the requirements, including the manner and method, of returning state equipment and/or property to CDPH. Final disposition of equipment and/or property shall be at CDPH expense and according to CDPH instructions. Equipment and/or property disposition instructions shall be issued by CDPH immediately after receipt of the final inventory report. At the termination or conclusion of this Agreement, CDPH may at its discretion, authorize the continued use of state equipment and/or property for performance of work under a different CDPH agreement.

g. Motor Vehicles

(Applicable only if motor vehicles are purchased/reimbursed with agreement funds or furnished by CDPH under this Agreement.)

- (1) If motor vehicles are purchased/reimbursed or furnished by CDPH under the terms of this Agreement, within thirty (30) calendar days prior to the termination or end of this Agreement, the Contractor shall return such vehicles to CDPH and shall deliver all necessary documents of title or registration to enable the proper transfer of a marketable title to CDPH.
- (2) If motor vehicles are purchased/reimbursed or furnished by CDPH under the terms of this Agreement, **the State of California shall be the legal owner of said motor vehicles and the Contractor shall be the registered owner.** The Contractor shall only use said vehicles for the performance under the terms of this Agreement.
- (3) The Contractor agree that all operators of motor vehicles, purchased/reimbursed or furnished by CDPH under the terms of this Agreement, shall hold a valid State of California driver's license. In the event that ten or more passengers are to be transported in any one vehicle, the operator shall also hold a State of California Class B driver's license.
- (4) If any motor vehicle is purchased/reimbursed or furnished by CDPH under the terms of this Agreement, the Contractor, as applicable, shall provide, maintain, and certify that, at a minimum, the following type and amount of automobile liability insurance is in effect during the term of this Agreement or any extension period during which any vehicle remains in the Contractor's possession:

Automobile Liability Insurance

- (a) The Contractor, by signing this Agreement, hereby certifies that it possesses or will obtain automobile liability insurance in the amount of \$1,000,000 per occurrence for bodily injury and property damage combined. Said insurance must be obtained and made effective upon the delivery date of any motor vehicle, purchased/reimbursed with agreement funds or furnished by CDPH under the terms of this Agreement, to the Contractor.
- (b) The Contractor shall, as soon as practical, furnish a copy of the certificate of insurance to the CDPH Program Contract Manager. The certificate of insurance shall identify the CDPH contract or agreement number for which the insurance applies.
- (c) The Contractor agree that bodily injury and property damage liability insurance, as required herein, shall remain in effect at all times during the term of this Agreement or until such time as the motor vehicle is returned to CDPH.

- (d) The Contractor agree to provide, at least thirty (30) days prior to the expiration date of said insurance coverage, a copy of a new certificate of insurance evidencing continued coverage, as indicated herein, for not less than the remainder of the term of this Agreement, the term of any extension or continuation thereof, or for a period of not less than one (1) year.
- (e) The Contractor, if not a self-insured government and/or public entity, must provide evidence, that any required certificates of insurance contain the following provisions:
 - [1] The insurer will not cancel the insured's coverage without giving thirty (30) calendar days prior written notice to the State.
 - [2] The State of California, its officers, agents, employees, and servants are included as additional insureds, but only with respect to work performed for the State under this Agreement and any extension or continuation of this Agreement.
 - [3] The insurance carrier shall notify CDPH, in writing, of the Contractor's failure to pay premiums; its cancellation of such policies; or any other substantial change, including, but not limited to, the status, coverage, or scope of the required insurance. Such notices shall contain a reference to each agreement number for which the insurance was obtained.
- (f) The Contractor is hereby advised that copies of certificates of insurance may be subject to review and approval by the Department of General Services (DGS), Office of Risk and Insurance Management. The Contractor shall be notified by CDPH, in writing, if this provision is applicable to this Agreement. If DGS approval of the certificate of insurance is required, the Contractor agrees that no work or services shall be performed prior to obtaining said approval.
- (g) In the event the Contractor fails to keep insurance coverage, as required herein, in effect at all times during vehicle possession, CDPH may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.

3. Subcontract Requirements

(Applicable to agreements under which services are to be performed by subcontractors including independent consultants.)

- a. Prior written authorization will be required before the Contractor enters into or is reimbursed for any subcontract for services exceeding \$5,000 for any articles, supplies, equipment, or services. The Contractor shall obtain at least three competitive quotations which should be submitted or adequate justification provided for the absence of bidding.
- b. CDPH reserves the right to approve or disapprove the selection of subcontractors and with advance written notice, require the substitution of subcontractors and require the Contractor to terminate subcontracts entered into in support of this Agreement.
 - (1) Upon receipt of a written notice from CDPH requiring the substitution and/or termination of a subcontract, the Contractor shall take steps to ensure the completion of any work in progress and select a replacement, if applicable, within 30 calendar days, unless a longer period is agreed to by CDPH.

- c. Actual subcontracts (i.e., written agreement between the Contractor and a subcontractor) exceeding \$5,000 are subject to the prior review and written approval of CDPH.
- d. Contractor shall maintain a copy of each subcontract entered into in support of this Agreement and shall, upon request by CDPH, make copies available for approval, inspection, or audit.
- e. CDPH assumes no responsibility for the payment of subcontractors used in the performance of this Agreement. Contractor accepts sole responsibility for the payment of subcontractors used in the performance of this Agreement.
- f. The Contractor is responsible for all performance requirements under this Agreement even though performance may be carried out through a subcontract.
- g. The Contractor shall ensure that all subcontracts for services include provision(s) requiring compliance with applicable terms and conditions specified in this Agreement and shall be the subcontractor's sole point of contact for all matters related to the performance and payment during the term of this Agreement.
- h. The Contractor agrees to include the following clause, relevant to record retention, in all subcontracts for services:

"(Subcontractor Name) agrees to maintain and preserve, until three years after termination of (Agreement Number) and final payment from CDPH to the Contractor, to permit CDPH or any duly authorized representative, to have access to, examine or audit any pertinent books, documents, papers and records related to this subcontract and to allow interviews of any employees who might reasonably have information related to such records."

4. Income Restrictions

Unless otherwise stipulated in this Agreement, the Contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Contractor under this Agreement shall be paid by the Contractor to CDPH, to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by CDPH under this Agreement.

5. Site Inspection

The State, through any authorized representatives, has the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed hereunder including subcontract supported activities and the premises in which it is being performed. If any inspection or evaluation is made of the premises of the Contractor or Subcontractor, the Contractor shall provide and shall require Subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the authorized representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the services performed.

6. Intellectual Property Rights

a. Ownership

- (1) Except as set forth below and except where CDPH has agreed in a signed writing to accept a license, CDPH shall be and remain, without additional compensation, the sole owner of any and all rights, title and interest in all Intellectual Property, from the moment of creation, whether or not jointly conceived, that are made, conceived, derived from, or reduced to practice by Contractor or CDPH and which result directly or indirectly from this Agreement. Notwithstanding the foregoing or any other language in this Agreement, Contractor and not CDPH shall own Intellectual Property relating to any clinical lab test or lab assay that is made, conceived, derived from or reduced to practice by contractor, regardless of whether it results directly /indirectly from this Agreement ("Clinical Tests or Assays")
- (2) For the purposes of this Agreement, Intellectual Property means recognized protectable rights and interest such as: patents, (whether or not issued) copyrights, trademarks, service marks, applications for any of the foregoing, inventions, trade secrets, trade dress, logos, insignia, color combinations, slogans, moral rights, right of publicity, author's rights, contract and licensing rights, works, mask works, industrial design rights, rights of priority, know how, design flows, methodologies, devices, business processes, developments, innovations, good will and all other legal rights protecting intangible proprietary information as may exist now and/or here after come into existence, and all renewals and extensions, regardless of whether those rights arise under the laws of the United States, or any other state, country or jurisdiction.
 - (a) For the purposes of the definition of Intellectual Property, "works" means all literary works, writings and printed matter including the medium by which they are recorded or reproduced, photographs, art work, pictorial and graphic representations and works of a similar nature, film, motion pictures, digital images, animation cells, and other audiovisual works including positives and negatives thereof, sound recordings, tapes, educational materials, interactive videos and any other materials or products created, produced, conceptualized and fixed in a tangible medium of expression. It includes preliminary and final products and any materials and information developed for the purposes of producing those final products. Works does not include articles submitted to peer review or reference journals or independent research projects.
- (3) In the performance of this Agreement, Contractor will exercise and utilize certain of its Intellectual Property in existence prior to the effective date of this Agreement. In addition, under this Agreement, Contractor may access and utilize certain of CDPH's Intellectual Property in existence prior to the effective date of this Agreement. Except as otherwise set forth herein, Contractor shall not use any of CDPH's Intellectual Property now existing or hereafter existing for any purposes without the prior written permission of CDPH. **Except as otherwise set forth herein, neither the Contractor nor CDPH shall give any ownership interest in or rights to its Intellectual Property to the other Party.** If during the term of this Agreement, Contractor accesses any third-party Intellectual Property that is licensed to CDPH, Contractor agrees to abide by all license and confidentiality restrictions applicable to CDPH in the third-party's license agreement.
- (4) Contractor agrees to cooperate with CDPH in establishing or maintaining CDPH's exclusive rights in the Intellectual Property, and in assuring CDPH's sole rights against third parties with respect to the Intellectual Property. If the Contractor enters into any agreements or subcontracts with other parties in order to perform this Agreement, Contractor shall require the terms of the Agreement(s) to include all Intellectual Property provisions. Such terms must include, but are not limited to, the subcontractor assigning and agreeing to assign to CDPH all rights, title and interest in Intellectual Property other than Clinical Tests or Lab Assays made, conceived, derived from, or reduced to practice by the subcontractor,

Contractor or CDPH and which result directly or indirectly from this Agreement or any subcontract.

- (5) Contractor further agrees to assist and cooperate with CDPH in all reasonable respects, and execute all documents and, subject to reasonable availability, give testimony and take all further acts reasonably necessary to acquire, transfer, maintain, and enforce CDPH's Intellectual Property rights and interests.

b. Retained Rights / License Rights

- (1) Contractor shall retain title to all of its Intellectual Property to the extent such Intellectual Property is in existence prior to the effective date of this Agreement.
- (2) Nothing in this provision shall restrict, limit, or otherwise prevent Contractor from using any ideas, concepts, know-how, methodology or techniques related to its performance under this Agreement, provided that Contractor's use does not infringe the patent, copyright, trademark rights, license or other Intellectual Property rights of CDPH or third party, or result in a breach or default of any provisions of this Exhibit or result in a breach of any provisions of law relating to confidentiality.

c. Copyright

- (1) Contractor agrees that for purposes of copyright law, all works [as defined in Paragraph a, subparagraph (2)(a) of this provision] of authorship made by or on behalf of Contractor in connection with Contractor's performance of this Agreement shall be deemed "works made for hire". Contractor further agrees that the work of each person utilized by Contractor in connection with the performance of this Agreement will be a "work made for hire," whether that person is an employee of Contractor or that person has entered into an agreement with Contractor to perform the work. Contractor shall enter into a written agreement with any such person that: (i) all work performed for Contractor shall be deemed a "work made for hire" under the Copyright Act and (ii) that person shall assign all right, title, and interest to CDPH to any work product made, conceived, derived from, or reduced to practice by Contractor or CDPH and which result directly or indirectly from this Agreement.
- (2) All materials, including, but not limited to, visual works or text, reproduced or distributed pursuant to this Agreement that include Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or CDPH and which result directly or indirectly from this Agreement, shall include CDPH's notice of copyright, which shall read in 3mm or larger typeface: "© [Enter Current Year e.g., 2014, etc.], Department of Public Health. This material may not be reproduced or disseminated without prior written permission from the Department of Public Health." This notice should be placed prominently on the materials and set apart from other matter on the page where it appears. Audio productions shall contain a similar audio notice of copyright.

d. Third-Party Intellectual Property

Except as provided herein, Contractor agrees that its performance of this Agreement shall not be dependent upon or include any Intellectual Property of Contractor or third party without first: (i) obtaining CDPH's prior written approval; and (ii) granting to or obtaining for CDPH, without additional compensation, a license, as described in Section b of this provision, for any of Contractor's or third-party's Intellectual Property in existence prior to the effective date of this Agreement. If such a license upon the these terms is unattainable, and CDPH determines that

the Intellectual Property should be included in or is required for Contractor's performance of this Agreement, Contractor shall obtain a license under terms acceptable to CDPH.

e. Warranties

(1) Contractor represents and warrants that:

- (a) It is free to enter into and fully perform this Agreement.
- (b) It has secured and will secure all rights and licenses necessary for its performance of this Agreement.
- (c) Neither Contractor's performance of this Agreement, nor the exercise by either Party of the rights granted in this Agreement, nor any use, reproduction, manufacture, sale, offer to sell, import, export, modification, public and private display/performance, distribution, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or CDPH and which result directly or indirectly from this Agreement will infringe upon or violate any Intellectual Property right, non-disclosure obligation, or other proprietary right or interest of any third-party or entity now existing under the laws of, or hereafter existing or issued by, any state, the United States, or any foreign country. There is currently no actual or threatened claim by any such third party based on an alleged violation of any such right by Contractor.
- (d) Neither Contractor's performance nor any part of its performance will violate the right of privacy of, or constitute a libel or slander against any person or entity.
- (e) It has secured and will secure all rights and licenses necessary for Intellectual Property including, but not limited to, consents, waivers or releases from all authors of music or performances used, and talent (radio, television and motion picture talent), owners of any interest in and to real estate, sites, locations, property or props that may be used or shown.
- (f) It has not granted and shall not grant to any person or entity any right that would or might derogate, encumber, or interfere with any of the rights granted to CDPH in this Agreement.
- (g) It has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
- (h) It has no knowledge of any outstanding claims, licenses or other charges, liens, or encumbrances of any kind or nature whatsoever that could affect in any way Contractor's performance of this Agreement.

(2) CDPH MAKES NO WARRANTY THAT THE INTELLECTUAL PROPERTY RESULTING FROM THIS AGREEMENT DOES NOT INFRINGE UPON ANY PATENT, TRADEMARK, COPYRIGHT OR THE LIKE, NOW EXISTING OR SUBSEQUENTLY ISSUED.

f. Intellectual Property Indemnity

(1) Contractor shall indemnify, defend and hold harmless CDPH and its licensees and assignees, and its officers, directors, employees, agents, representatives, successors, and

users of its products, ("Indemnitees") from and against all claims, actions, damages, losses, liabilities (or actions or proceedings with respect to any thereof), whether or not rightful, arising from any and all actions or claims by any third party or expenses related thereto (including, but not limited to, all legal expenses, court costs, and attorney's fees incurred in investigating, preparing, serving as a witness in, or defending against, any such claim, action, or proceeding, commenced or threatened) to which any of the Indemnitees may be subject, whether or not Contractor is a party to any pending or threatened litigation, which arise out of or are related to (i) the incorrectness or breach of any of the representations, warranties, covenants or agreements of Contractor pertaining to Intellectual Property; or (ii) any Intellectual Property infringement, or any other type of actual or alleged infringement claim, arising out of CDPH's use, reproduction, manufacture, sale, offer to sell, distribution, import, export, modification, public and private performance/display, license, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or CDPH and which result directly or indirectly from this Agreement. This indemnity obligation shall apply irrespective of whether the infringement claim is based on a patent, trademark or copyright registration that issued after the effective date of this Agreement. CDPH reserves the right to participate in and/or control, at Contractor's expense, any such infringement action brought against CDPH.

- (2) Should any Intellectual Property licensed by the Contractor to CDPH under this Agreement become the subject of an Intellectual Property infringement claim, Contractor will exercise its authority reasonably and in good faith to preserve CDPH's right to use the licensed Intellectual Property in accordance with this Agreement at no expense to CDPH. CDPH shall have the right to monitor and appear through its own counsel (at Contractor's expense) in any such claim or action. In the defense or settlement of the claim, Contractor may obtain the right for CDPH to continue using the licensed Intellectual Property; or, replace or modify the licensed Intellectual Property so that the replaced or modified Intellectual Property becomes non-infringing provided that such replacement or modification is functionally equivalent to the original licensed Intellectual Property. If such remedies are not reasonably available, CDPH shall be entitled to a refund of all monies paid under this Agreement, without restriction or limitation of any other rights and remedies available at law or in equity.
- (3) Contractor agrees that damages alone would be inadequate to compensate CDPH for breach of any term of this Intellectual Property Exhibit by Contractor. Contractor acknowledges CDPH would suffer irreparable harm in the event of such breach and agrees CDPH shall be entitled to obtain equitable relief, including without limitation an injunction, from a court of competent jurisdiction, without restriction or limitation of any other rights and remedies available at law or in equity.

g. Survival

The provisions set forth herein shall survive any termination or expiration of this Agreement or any project schedule.

7. Prior Approval of Training Seminars, Workshops or Conferences

Contractor shall obtain prior CDPH approval of the location, costs, dates, agenda, instructors, instructional materials, and attendees at any reimbursable training seminar, workshop, or conference conducted pursuant to this Agreement and of any reimbursable publicity or educational materials to be made available for distribution. The Contractor shall acknowledge the support of the State whenever publicizing the work under this Agreement in any media. This provision does

not apply to necessary staff meetings or training sessions held for the staff of the Contractor in order to conduct routine business matters.

8. Confidentiality of Information

The Contractor and its employees, agents, or subcontractors shall:

- a. Protect from unauthorized disclosure names and other identifying information concerning persons either receiving services pursuant to this Agreement or persons whose names or identifying information become available or are disclosed to the Contractor, its employees, agents, or subcontractors as a result of services performed under this Agreement, except for statistical information not identifying any such person.
- b. Not use such identifying information for any purpose other than carrying out the Contractor's obligations under this Agreement.
- c. Promptly transmit to the CDPH Contract Manager all requests for disclosure of such identifying information not emanating from the client or person.
- d. Not disclose, except as otherwise specifically permitted by this Agreement or authorized by the client, any such identifying information to anyone other than CDPH without prior written authorization from the CDPH Contract Manager, except if disclosure is required by State or Federal law.
- e. For purposes of this provision, identity shall include, but not be limited to name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.
- f. As deemed applicable by CDPH, this provision may be supplemented by additional terms and conditions covering personal health information (PHI) or personal, sensitive, and/or confidential information (PSCI). Said terms and conditions will be outlined in one or more exhibits that will either be attached to this Agreement or incorporated into this Agreement by reference.

9. Documents, Publications and Written Reports

(Applicable to agreements over \$5,000 under which publications, written reports and documents are developed or produced. Government Code Section 7550.)

Any document, publication or written report (excluding progress reports, financial reports and normal contractual communications) prepared as a requirement of this Agreement shall contain, in a separate section preceding the main body of the document, the number and dollar amounts of all contracts or agreements and subcontracts relating to the preparation of such document or report, if the total cost for work by nonemployees of the State exceeds \$5,000.

10. Dispute Resolution Process

- a. A Contractor grievance exists whenever there is a dispute arising from CDPH's action in the administration of an agreement. If there is a dispute or grievance between the Contractor and CDPH, the Contractor must seek resolution using the procedure outlined below.

- (1) The Contractor should first informally discuss the problem with the CDPH Program Contract Manager. If the problem cannot be resolved informally, the Contractor shall direct its grievance together with any evidence, in writing, to the program Branch Chief. The grievance shall state the issues in dispute, the legal authority or other basis for the Contractor's position and the remedy sought. The Branch Chief shall render a decision within ten (10) working days after receipt of the written grievance from the Contractor. The Branch Chief shall respond in writing to the Contractor indicating the decision and reasons therefore. If the Contractor disagrees with the Branch Chief's decision, the Contractor may appeal to the second level.
 - (2) When appealing to the second level, the Contractor must prepare an appeal indicating the reasons for disagreement with Branch Chief's decision. The Contractor shall include with the appeal a copy of the Contractor's original statement of dispute along with any supporting evidence and a copy of the Branch Chief's decision. The appeal shall be addressed to the Deputy Director of the division in which the branch is organized within ten (10) working days from receipt of the Branch Chief's decision. The Deputy Director of the division in which the branch is organized or his/her designee shall meet with the Contractor to review the issues raised. A written decision signed by the Deputy Director of the division in which the branch is organized or his/her designee shall be directed to the Contractor within twenty (20) working days of receipt of the Contractor's second level appeal.
- b. If the Contractor wishes to appeal the decision of the Deputy Director of the division in which the branch is organized or his/her designee, the Contractor shall follow the procedures set forth in Division 25.1 (commencing with Section 38050) of the Health and Safety Code and the regulations adopted thereunder. (Title 1, Division 2, Chapter 2, Article 3 (commencing with Section 1140) of the California Code of Regulations).
 - c. Disputes arising out of an audit, examination of an agreement or other action not covered by subdivision (a) of Section 20204, of Chapter 2.1, Title 22, of the California Code of Regulations, and for which no procedures for appeal are provided in statute, regulation or the Agreement, shall be handled in accordance with the procedures identified in Sections 51016 through 51047, Title 22, California Code of Regulations.
 - d. Unless otherwise stipulated in writing by CDPH, all dispute, grievance and/or appeal correspondence shall be directed to the CDPH Contract Manager.
 - e. There are organizational differences within CDPH's funding programs and the management levels identified in this dispute resolution provision may not apply in every contractual situation. When a grievance is received and organizational differences exist, the Contractor shall be notified in writing by the CDPH Contract Manager of the level, name, and/or title of the appropriate management official that is responsible for issuing a decision at a given level.

11. Officials Not to Benefit

No members of or delegate of Congress or the State Legislature shall be admitted to any share or part of this Agreement, or to any benefit that may arise therefrom. This provision shall not be construed to extend to this Agreement if made with a corporation for its general benefits.

12. Prohibited Use of State Funds for Software

Contractor certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

13. Contract Uniformity (Fringe Benefit Allowability)

(Applicable only to nonprofit organizations.)

Pursuant to the provisions of Article 7 (commencing with Section 100525) of Chapter 3 of Part 1 of Division 101 of the Health and Safety Code, CDPH sets forth the following policies, procedures, and guidelines regarding the reimbursement of fringe benefits.

- a. As used herein fringe benefits shall mean an employment benefit given by one's employer to an employee in addition to one's regular or normal wages or salary.
- b. As used herein, fringe benefits do not include:
 - (1) Compensation for personal services paid currently or accrued by the Contractor for services of employees rendered during the term of this Agreement, which is identified as regular or normal salaries and wages, annual leave, vacation, sick leave, holidays, jury duty and/or military leave/training.
 - (2) Director's and executive committee member's fees.
 - (3) Incentive awards and/or bonus incentive pay.
 - (4) Allowances for off-site pay.
 - (5) Location allowances.
 - (6) Hardship pay.
 - (7) Cost-of-living differentials
- c. Specific allowable fringe benefits include:
 - (1) Fringe benefits in the form of employer contributions for the employer's portion of payroll taxes (i.e., FICA, SUI, SDI), employee health plans (i.e., health, dental and vision), unemployment insurance, worker's compensation insurance, and the employer's share of pension/retirement plans, provided they are granted in accordance with established written organization policies and meet all legal and Internal Revenue Service requirements.
- d. To be an allowable fringe benefit, the cost must meet the following criteria:
 - (1) Be necessary and reasonable for the performance of the Agreement.
 - (2) Be determined in accordance with generally accepted accounting principles.
 - (3) Be consistent with policies that apply uniformly to all activities of the Contractor.
- e. Contractor agrees that all fringe benefits shall be at actual cost.
- f. Earned/Accrued Compensation
 - (1) Compensation for vacation, sick leave and holidays is limited to that amount earned/accrued within the agreement term. Unused vacation, sick leave and holidays earned from periods prior to the agreement term cannot be claimed as allowable costs. See section f (3)(a) below for an example.

- (2) For multiple year agreements, vacation and sick leave compensation, which is earned/accrued but not paid, due to employee(s) not taking time off may be carried over and claimed within the overall term of the multiple years of the Agreement. Holidays cannot be carried over from one agreement year to the next. See Provision f (3)(b) for an example.
- (3) For single year agreements, vacation, sick leave and holiday compensation that is earned/accrued but not paid, due to employee(s) not taking time off within the term of the Agreement, cannot be claimed as an allowable cost. See Provision f (3)(c) for an example.

(a) **Example No. 1:**

If an employee, John Doe, earns/accrues three weeks of vacation and twelve days of sick leave each year, then that is the maximum amount that may be claimed during a one year agreement. If John Doe has five weeks of vacation and eighteen days of sick leave at the beginning of an agreement, the Contractor during a one-year budget period may only claim up to three weeks of vacation and twelve days of sick leave as actually used by the employee. Amounts earned/accrued in periods prior to the beginning of the Agreement are not an allowable cost.

(b) **Example No. 2:**

If during a three-year (multiple year) agreement, John Doe does not use his three weeks of vacation in year one, or his three weeks in year two, but he does actually use nine weeks in year three; the Contractor would be allowed to claim all nine weeks paid for in year three. The total compensation over the three-year period cannot exceed 156 weeks (3 x 52 weeks).

(c) **Example No. 3:**

If during a single year agreement, John Doe works fifty weeks and used one week of vacation and one week of sick leave and all fifty-two weeks have been billed to CDPH, the remaining unused two weeks of vacation and seven days of sick leave may not be claimed as an allowable cost.

14. Cancellation

- A. This agreement may be cancelled by CDPH without cause upon 30 calendar days advance written notice to the Contractor.
- B. CDPH reserves the right to cancel or terminate this agreement immediately for cause. The Contractor may submit a written request to terminate this agreement only if CDPH substantially fails to perform its responsibilities as provided herein.
- C. The term “for cause” shall mean that the Contractor fails to meet the terms, conditions, and/or responsibilities of this agreement.
- D. Agreement termination or cancellation shall be effective as of the date indicated in CDPH's notification to the Contractor. The notice shall stipulate any final performance, invoicing or payment requirements.

- E. Upon receipt of a notice of termination or cancellation, the Contractor shall take immediate steps to stop performance and to cancel or reduce subsequent agreement costs.
- F. In the event of early cancellation or termination, the Contractor shall be entitled to compensation for services performed satisfactorily under this agreement and expenses incurred up to the date of cancellation and any non-cancelable obligations incurred in support of this agreement.

Exhibit E
Additional Provisions

1. Insurance Requirements

A. General Provisions Applying to All Policies

- 1) Coverage Term – Coverage needs to be in force for the complete term of the Agreement. If insurance expires during the term of the Agreement, a new certificate and required endorsements must be received by the State at least ten (10) days prior to the expiration of this insurance. Any new insurance must comply with the original Agreement terms.
- 2) Policy Cancellation or Termination and Notice of Non-Renewal – Contractor shall provide to the CDPH within five (5) business days following receipt by Contractor a copy of any cancellation or non-renewal of insurance required by this Contract. In the event Contractor fails to keep in effect at all times the specified insurance coverage, the CDPH may, in addition to any other remedies it may have, terminate this Contract upon the occurrence of such event, subject to the provisions of this Contract.
- 3) Premiums, Assessments and Deductibles – Contractor is responsible for any premiums, policy assessments, deductibles or self-insured retentions contained within their insurance program.
- 4) Primary Clause – Any required insurance contained in this Agreement shall be primary and not excess or contributory to any other insurance carried by the CDPH.
- 5) Insurance Carrier Required Rating – All insurance companies must carry an AM Best rating of at least “A–” with a financial category rating of no lower than VI. If Contractor is self-insured for a portion or all of its insurance, review of financial information including a letter of credit may be required.
- 6) Endorsements – Any required endorsements requested by the CDPH must be physically attached to all requested certificates of insurance and not substituted by referring to such coverage on the certificate of insurance.
- 7) Inadequate Insurance – Inadequate or lack of insurance does not negate Contractor’s obligations under the Agreement.
- 8) Use of Subcontractors - In the case of Contractor’s utilization of Subcontractors to complete the contracted scope of work, Contractor shall include all Subcontractors as insured under Contractor’s insurance or supply evidence of the Subcontractor’s insurance to the CDPH equal to policies, coverages, and limits required of Contractor.

B. Insurance Coverage Requirements

Contractor shall display evidence of certificate of insurance evidencing the following coverage:

- 1) Commercial General Liability – Contractor shall maintain general liability with limits not less than \$1,000,000 per occurrence for bodily injury and property damage combined with a \$2,000,000 annual policy aggregate. The policy shall include coverage for liabilities arising out of premises, operations, independent Contractors, products, completed operations, personal and advertising injury, and liability assumed under an insured Agreement. This insurance shall apply separately to each insured against whom claim is made or suit is brought subject to Contractor’s limit of liability.

Exhibit E
Additional Provisions

The policy shall be endorsed to include, "The State of California, its officers, agents, employees, and servants as additional insured, but only insofar as the operations under this Agreement are concerned." This endorsement must be supplied under form acceptable to the Office of Risk and Insurance Management.

- 2) Automobile Liability (when required) – Contractor shall maintain motor vehicle liability insurance with limits not less than \$1,000,000 combined single limit per accident. Such insurance shall cover liability arising out of a motor vehicle including owned, hired and non-owned motor vehicles. Should the scope of the Agreement involve transportation of hazardous materials, evidence of an MCS-90 endorsement is required. The policy shall be endorsed to include, "The State of California, its officers, agents, employees, and servants as additional insured, but only insofar as the operations under this Agreement are concerned." This endorsement must be supplied under form acceptable to the Office of Risk and Insurance Management.
- 3) Worker's Compensation and Employer's Liability (when required) – Contractor shall maintain statutory worker's compensation and employer's liability coverage for all its employees who will be engaged in the performance of the Agreement. Employer's liability limits of \$1,000,000 are required. When work is performed on State owned or controlled property the policy shall contain a waiver of subrogation endorsement in favor of the State. This endorsement must be supplied under form acceptable to the Office of Risk and Insurance Management.
- 4) Professional Liability (when required) – Contractor shall maintain professional liability covering any damages caused by a negligent error; act or omission with limits not less than \$1,000,000 per occurrence and \$1,000,000 policy aggregate. The policy's retroactive date must be displayed on the certificate of insurance and must be before the date this Agreement was executed or before the beginning of Agreement work.
- 5) Environmental/Pollution Liability (when required) – Contractor shall maintain pollution liability for limits not less than \$1,000,000 per claim covering Contractor's liability for bodily injury, property damage and environmental damage resulting from pollution and related cleanup costs incurred arising out of the work or services to be performed under this Agreement. Coverage shall be provided for both work performed on site as well as transportation and proper disposal of hazardous materials. The policy shall be endorsed to include, "The State of California, its officers, agents, employees, and servants as additional insured, but only insofar as the operations under this Agreement are concerned." This endorsement must be supplied under form acceptable to the Office of Risk and Insurance Management.
- 6) Aircraft Liability (when required) - Contractor shall maintain aircraft liability with a limit not less than \$3,000,000. The policy shall be endorsed to include, "The State of California, its officers, agents, employees and servants as additional insured, but only insofar as the operations under this Agreement." This endorsement must be supplied under form acceptable to the Office of Risk and Insurance Management.

Federal Terms and Conditions

(For Federally Funded Cooperative Agreements)

The use of headings or titles throughout this exhibit is for convenience only and shall not be used to interpret or to govern the meaning of any specific term or condition.

This exhibit contains provisions that require strict adherence to various contracting laws and policies.

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1. Federal Contract Funds
2. Federal Equal Employment Opportunity Requirements
3. Debarment and Suspension Certification
4. Covenant Against Contingent Fees
5. Lobbying Restrictions and Disclosure Certification
6. Additional Restrictions
7. Human Subjects Use Requirements
8. Financial and Compliance Audit Requirements
9. Audit and Record Retention
10. Federal Requirements

1. Federal Contract Funds

Applicable only to that portion of an agreement funded in part or whole with federal funds.

- a. It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of congressional appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays which would occur if the Agreement were executed after that determination was made.
- b. This agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the fiscal years covered by the term of this Agreement. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or any statute enacted by the Congress which may affect the provisions, terms or funding of this Agreement in any manner.
- c. It is mutually agreed that if the Congress does not appropriate sufficient funds for the program, this Agreement shall be amended to reflect any reduction in funds.
- d. CDPH has the option to invalidate or cancel the Agreement with 30-days advance written notice or to amend the Agreement to reflect any reduction in funds.

2. Federal Equal Opportunity Requirements

Applicable to all federally funded agreements entered into by the California Department of Public Health (CDPH).

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. The Contractor will take affirmative action to ensure that qualified applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and career development opportunities and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Federal Government or CDPH, setting forth the provisions of the Equal Opportunity clause, Section 503 of the Rehabilitation Act of 1973 and the affirmative action clause required by the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212). Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified applicants without discrimination based on their race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era and the rights of applicants and employees.
- b. The Contractor will, in all solicitations or advancements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era.
- c. The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice, to be provided by the Federal Government or the State, advising the labor union or workers' representative of the Contractor's commitments under the provisions herein and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d. The Contractor will comply with all provisions of and furnish all information and reports required by Section 503 of the Rehabilitation Act of 1973, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212) and of the Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and of the rules, regulations, and relevant orders of the Secretary of Labor.

- e. The Contractor will furnish all information and reports required by Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and the Rehabilitation Act of 1973, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the State and its designated representatives and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- f. In the event of the Contractor's noncompliance with the requirements of the provisions herein or with any federal rules, regulations, or orders which are referenced herein, this Agreement may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further federal and state contracts in accordance with procedures authorized in Federal Executive Order No. 11246 as amended and such other sanctions may be imposed and remedies invoked as provided in Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- g. The Contractor will include the provisions of Paragraphs a through g in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or Section 503 of the Rehabilitation Act of 1973 or (38 U.S.C. 4212) of the Vietnam Era Veteran's Readjustment Assistance Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs or CDPH may direct as a means of enforcing such provisions including sanctions for noncompliance provided, however, that in the event the Contractor becomes involved in, or is threatened with litigation by a subcontractor or vendor as a result of such direction by CDPH, the Contractor may request in writing to CDPH, who, in turn, may request the United States to enter into such litigation to protect the interests of the State and of the United States.

3. Debarment and Suspension Certification

- a. By signing this Agreement, the Contractor/Subcontractor agrees to comply with applicable federal suspension and debarment regulations including, but not limited to 7 CFR Part 3017, 45 CFR 76, 40 CFR 32 or 34 CFR 85.
- b. By signing this Agreement, the Contractor certifies to the best of its knowledge and belief, that it and its principals:
 - (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
 - (2) Have not within a three-year period preceding this application/proposal/agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in Paragraph b(2) herein; and
 - (4) Have not within a three-year period preceding this application/proposal/agreement had one or more public transactions (Federal, State or local) terminated for cause or default.

- (5) Shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under federal regulations (i.e., 48 CFR part 9, subpart 9.4), debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction, unless authorized by the State.
 - (6) Will include a clause entitled, "Debarment and Suspension Certification" that essentially sets forth the provisions herein, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- c. If the Contractor is unable to certify to any of the statements in this certification, the Contractor shall submit an explanation to the CDPH Program Contract Manager.
 - d. The terms and definitions herein have the meanings set out in the Definitions and Coverage sections of the rules implementing Federal Executive Order 12549 of Feb. 18, 1986, appear at 51 FR 6370, 3 CFR, 1986 Comp., p. 189, unless otherwise noted.
 - e. If the Contractor knowingly violates this certification, in addition to other remedies available to the Federal Government, the CDPH may terminate this Agreement for cause or default.

4. Covenant Against Contingent Fees

The Contractor warrants that no person or selling agency has been employed or retained to solicit/secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage, or contingent fee, except *bona fide* employees or *bona fide* established commercial or selling agencies retained by the Contractor for the purpose of securing business. For breach or violation of this warranty, CDPH shall have the right to annul this Agreement without liability or in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, and brokerage or contingent fee.

5. Lobbying Restrictions and Disclosure Certification

Applicable to federally funded agreements in excess of \$100,000 per Section 1352 of the 31, U.S.C.

a. Certification and Disclosure Requirements

- (1) Each person (or recipient) who requests or receives a contract or agreement, subcontract, grant, or subgrant, which is subject to Section 1352 of the 31, U.S.C., and which exceeds \$100,000 at any tier, shall file a certification (in the form set forth in Attachment 1, consisting of one page, entitled "Certification Regarding Lobbying") that the recipient has not made, and will not make, any payment prohibited by Paragraph b of this provision.
- (2) Each recipient shall file a disclosure (in the form set forth in Attachment 2, entitled "Standard Form-LLL 'disclosure of Lobbying Activities'") if such recipient has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered federal action) in connection with a contract, or grant or any extension or amendment of that contract, or grant, which would be prohibited under Paragraph b of this provision if paid for with appropriated funds.
- (3) Each recipient shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affect the accuracy of the information contained in any disclosure form previously filed by such person under Paragraph a(2) herein. An event that materially affects the accuracy of the information reported includes:
 - (a) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered federal action;
 - (b) A change in the person(s) or individuals(s) influencing or attempting to influence a covered federal action; or
 - (c) A change in the officer(s), employee(s), or member(s) contacted for the purpose of influencing or attempting to influence a covered federal action.
- (4) Each person (or recipient) who requests or receives from a person referred to in Paragraph a(1) of this provision a contract or agreement, subcontract, grant or subgrant exceeding \$100,000 at any tier under a contract or agreement, or grant shall file a certification, and a disclosure form, if required, to the next tier above.

- (5) All disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the person referred to in Paragraph a(1) of this provision. That person shall forward all disclosure forms to CDPH Program Contract Manager.

b. Prohibition

Section 1352 of Title 31, U.S.C., provides in part that no appropriated funds may be expended by the recipient of a federal contract or agreement, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered federal actions: the awarding of any federal contract or agreement, the making of any federal grant, the making of any federal loan, entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract or agreement, grant, loan, or cooperative agreement.

6. Additional Restrictions

Applicable to all contracts funded in whole or in part with funding from the federal Departments of Labor, Health and Human Services (including CDC funding), or Education.

Contractor shall comply with the restrictions under Division F, Title V, Section 503 of the Consolidated Appropriations Act, 2012 (H.R. 2055), which provides that:

“SEC. 503.(a) No part of any appropriation contained in this Act or transferred pursuant to section 4002 of Public Law 111–148 shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the Congress or any State or local legislature or legislative body, except in presentation to the Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government, except in presentation to the executive branch of any State or local government itself.

(b) No part of any appropriation contained in this Act or transferred pursuant to section 4002 of Public Law 111–148 shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.

(c) The prohibitions in subsections (a) and (b) shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.”

7. Human Subjects Use Requirements

(Applicable only to federally funded agreements in which performance, directly or through a subcontract/subaward, includes any tests or examination of materials derived from the human body.)

By signing this Agreement, Contractor agrees that if any performance under this Agreement or any subcontract or subagreement includes any tests or examination of materials derived from the human body for the purpose of providing information, diagnosis, prevention, treatment or assessment of disease, impairment, or health of a human being, all locations at which such examinations are performed shall meet the requirements of 42 U.S.C. Section 263a (CLIA) and the regulations thereunder.

8. Financial and Compliance Audit Requirements

By signing this Agreement, the Contractor/Subcontractor agrees to abide by all requirements specified in 2 CFR 200 *et seq.*, 2 CFR *et seq.*, as applicable, including but not limited to obtaining an annual audit, and any subsequent federal regulatory additions or revisions.

- a. The definitions used in this provision are contained in Section 38040 of the Health and Safety Code, which by this reference is made a part hereof.
- b. Direct service contract means a contract or agreement for services contained in local assistance or subvention programs or both (see Health and Safety [H&S] Code section 38020). Direct service contracts shall not include contracts, agreements, grants, or subventions to other governmental agencies or units of government nor contracts or agreements with regional centers or area agencies on aging (H&S Code section 38030).
- c. The Contractor, as indicated below, agrees to obtain one of the following audits:
 - (1) If the Contractor is a nonprofit organization (as defined in H&S Code section 38040) and receives \$25,000 or more from any State agency under a direct service contract or agreement; the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit. Said audit shall be conducted according to Generally Accepted Auditing Standards. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**
 - (2) If the Contractor is a nonprofit organization (as defined in H&S Code section 38040) and receives less than \$25,000 per year from any State agency under a direct service contract or agreement, the Contractor agrees to obtain a biennial single, organization wide financial and compliance audit, unless there is evidence of fraud or other violation of state law in connection with this Agreement. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**
 - (3) If the Contractor is a State or Local Government entity or Nonprofit organization (as defined in 2CFR Part 200) and expends \$750,000 or more in Federal awards, the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit according to the requirements specified in 2CFR Part 200. An audit conducted pursuant to this provision will fulfill the audit requirements outlined in Paragraphs c(1) and c(2) above. The audit shall be completed by the end of the ninth month following the end of the audit period. The requirements of this provision apply if:
 - (a) The Contractor is a recipient expending Federal awards received directly from Federal awarding agencies, or
 - (b) The Contractor is a subrecipient expending Federal awards received from a pass-through entity such as the State, County or community based organization.
 - (4) If the Contractor submits to CDPH a report of an audit other than a single audit, the Contractor must also submit a certification indicating the Contractor has not expended \$750,000 or more in federal funds for the year covered by the audit report.
- d. Two copies of the audit report shall be delivered to the CDPH program funding this Agreement. The audit report must identify the Contractor's legal name and the number assigned to this Agreement. The audit report shall be due within 30 days after the completion of the audit. Upon receipt of said audit report, the CDPH Program Contract Manager shall forward the audit report to CDPH's Audits and Investigations Unit if the audit report was submitted under Section 16.c(3), unless the audit report is from a City, County, or Special District within the State of California whereby the report will be retained by the funding program.
- e. The cost of the audits described herein may be included in the funding for this Agreement up to the proportionate amount this Agreement represents of the Contractor's total revenue. The CDPH program funding this Agreement must provide advance written approval of the specific amount allowed for said audit expenses.

- f. The State or its authorized designee, including the Bureau of State Audits, is responsible for conducting agreement performance audits which are not financial and compliance audits. Performance audits are defined by Generally Accepted Government Auditing Standards.
- g. Nothing in this Agreement limits the State's responsibility or authority to enforce State law or regulations, procedures, or reporting requirements arising thereto.
- h. Nothing in this provision limits the authority of the State to make audits of this Agreement, provided however, that if independent audits arranged for by the Contractor meet Generally Accepted Governmental Auditing Standards, the State shall rely on those audits and any additional audit work and shall build upon the work already done.
- i. The State may, at its option, direct its own auditors to perform either of the audits described above. The Contractor will be given advance written notification, if the State chooses to exercise its option to perform said audits.
- j. The Contractor shall include a clause in any agreement the Contractor enters into with the audit firm doing the single organization wide audit to provide access by the State or Federal Government to the working papers of the independent auditor who prepares the single organization wide audit for the Contractor.
- k. Federal or state auditors shall have "expanded scope auditing" authority to conduct specific program audits during the same period in which a single organization wide audit is being performed, but the audit report has not been issued. The federal or state auditors shall review and have access to the current audit work being conducted and will not apply any testing or review procedures which have not been satisfied by previous audit work that has been completed.

The term "expanded scope auditing" is applied and defined in the U.S. General Accounting Office (GAO) issued Standards for *Audit of Government Organizations, Programs, Activities and Functions*, better known as the "yellow book".

9. Audit and Record Retention

(Applicable to agreements in excess of \$10,000.)

- a. The Contractor shall maintain books, records, documents, and other evidence, accounting procedures and practices, sufficient to properly reflect all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this Agreement, including any matching costs and expenses. The foregoing constitutes "records" for the purpose of this provision.
- b. The Contractor's facility or office or such part thereof as may be engaged in the performance of this Agreement and his/her records shall be subject at all reasonable times to inspection, audit, and reproduction.
- c. Contractor agrees that CDPH, the Department of General Services, the Bureau of State Audits, or their designated representatives including the Comptroller General of the United States shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, the Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (GC 8546.7, CCR Title 2, Section 1896).
- d. The Contractor shall preserve and make available his/her records (1) for a period of three years from the date of final payment under this Agreement, and (2) for such longer period, if any, as is required by applicable statute, by any other provision of this Agreement, or by subparagraphs (1) or (2) below.
 - (1) If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of three years from the date of any resulting final settlement.
 - (2) If any litigation, claim, negotiation, audit, or other action involving the records has been started before

the expiration of the three-year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three-year period, whichever is later.

- e. The Contractor shall comply with the above requirements and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in Public Contract Code § 10115.10, if applicable.
- f. The Contractor may, at its discretion, following receipt of final payment under this Agreement, reduce its accounts, books and records related to this Agreement to microfilm, computer disk, CD ROM, or other data storage medium. Upon request by an authorized representative to inspect, audit or obtain copies of said records, the Contractor and/or Subcontractor must supply or make available applicable devices, hardware, and/or software necessary to view, copy and/or print said records. Applicable devices may include, but are not limited to, microfilm readers and microfilm printers, etc.
- g. The Contractor shall, if applicable, comply with the Single Audit Act and the audit reporting requirements set forth in Title 2 of the Code of Federal Regulations, Part 200 (2CFR Part 200).

10. Federal Requirements

Contractor agrees to comply with and shall require all subcontractors, if any, to comply with all applicable Federal requirements including but not limited to the United States Code, the Code of Federal Regulations, the Funding Opportunity Announcement, the Notice of Award, the funding agreement, and any memoranda or letter regarding the applicable Federal requirements.

**STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF PUBLIC HEALTH
CERTIFICATION REGARDING LOBBYING**

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making, awarding or entering into of this Federal contract, Federal grant, or cooperative agreement, and the extension, continuation, renewal, amendment, or modification of this Federal contract, grant, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency of the United States Government, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure of Lobbying Activities" in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontractor's, subcontracts, and contracts under cooperative agreements) of \$100,000 or more, and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C., any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Name of Contractor

Printed Name of Person Signing for Contractor

Contract Number

Signature of Person Signing for Contractor

Date

Title

After execution by or on behalf of Contractor, please return to:

California Department of Public Health

CDPH reserves the right to notify the Contractor in writing of an alternate submission address.

Attachment 2

CERTIFICATION REGARDING LOBBYING

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure)

Approved by OMB
0348-0046

1. Type of Federal Action: [] a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	2. Status of Federal Action: [] a. bid/offer/application b. initial award c. post-award	3. Report Type: [] a. initial filing b. material change For Material Change Only: Year ____ quarter ____ date of last report _____.
4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier ____, if known: Congressional District, If known:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, If known:	
6. Federal Department/Agency	7. Federal Program Name/Description: CDFA Number, if applicable: ____	
8. Federal Action Number, if known:	9. Award Amount, if known: \$	
10.a. Name and Address of Lobbying Registrant <i>(If individual, last name, first name, MI):</i>	b. Individuals Performing Services <i>(including address if different from 10a. (Last name, First name, MI):</i>	
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. required disclosure shall be subject to a not more than \$100,000 for each such failure.	Signature: _____	
	Print Name: _____	
	Title: _____	
	Telephone No.: _____ Date: _____	
Federal Use Only		Authorized for Local Reproduction Standard Form-LLL (Rev. 7-97)

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

Exhibit G

Date Current Contract Expires:

CDPH Program Name:

CDPH Program Contract Manager:

CDPH Program Address:

CDPH Program Contract Manager's Telephone Number:

Date of this Report:

(THIS IS NOT A BUDGET FORM)

[illegible]

INSTRUCTIONS FOR CDPH 1203 (Please read carefully.)

The information on this form will be used by the California Department of Public Health (CDPH) Asset Management (AM) to tag contract equipment and/or property (see definitions A, and B) which is purchased with CDPH funds and is used to conduct state business under this contract. After the Standard Agreement has been approved and each time state/CDPH equipment and/or property has been received, the CDPH Program Contract Manager is responsible for obtaining the information from the Contractor and submitting this form to CDPH AM. The CDPH Program Contract Manager is responsible for ensuring the information is complete and accurate. (See *Health Administrative Manual (HAM)*, Section 2-1060 and Section 9-2310.)

Upon receipt of this form from the CDPH Program Contract Manager, AM will fill in the first column with the assigned state/ CDPH property tag, if applicable, for each item (See definitions A and B). AM will return the original form to the CDPH Program Contract Manager, along with the appropriate property tags. The CDPH Program Contract Manager will then forward the property tags and the original form to the Contractor and retain one copy until the termination of this contract. The Contractor should place property tags in plain sight and, to the extent possible, on the item's front left-hand corner. The manufacturer's brand name and model number are not to be covered by the property tags.

1. If the item was shipped via the CDPH warehouse and was issued a state/CDPH property tag by warehouse staff, fill in the assigned property tag. If the item was shipped directly to the Contractor, leave the first column blank.

2. Provide the quantity, description, purchase date, base unit cost, and serial number (if applicable) for each item of:

A. Major Equipment:

- Tangible item having a base unit cost of \$5,000 or more and a life expectancy of one (1) year or more.
- Intangible item having a base unit cost of \$5,000 or more and a life expectancy of one (1) year or more (e.g., software, video).

These items are issued green numbered state/ CDPH property tags.

B. Minor Equipment/Property: Specific tangible items with a life expectancy of one (1) year or more that have a base unit cost less than \$5,000. **These items are issued green unnumbered "BLANK" state/ CDPH property tags** with the exception of the following, which are issued numbered tags: Personal Digital Assistant (PDA), PDA/cell phone combination (Blackberries), laptops, desktop personal computers, LAN servers, routers, and switches. NOTE: It is CDPH policy not to tag modular furniture. (See your Federal rules, if applicable.)

3. Provide the CDPH Purchase Order (STD 65) number if the items were purchased by CDPH. (See HAM, Section 2-1050.1.)

4. If a vehicle is being reported, provide the Vehicle Identification Number (VIN) and the vehicle license number to CDPH Vehicle Services. (See HAM, Section 2-10050.)

5. If all items being reported do not fit on one form, make copies and write the number of pages being sent in the upper right-hand corner (e.g., "Page 1 of 3.") The CDPH Program Contract Manager should retain one copy and send the original to: California Department of Public Health, Asset Management, MS 1801, P.O. Box 997377, 1501 Capitol Avenue, Sacramento, CA 95899-7377.

6. Property tags that have been lost or destroyed must be replaced. Replacement property tags can be obtained by contacting AM at (916) 341-6168.

7. Use the version on the CDPH Intranet forms site. The CDPH 1203 consists of one page for completion and one page with information and instructions.

Exhibit H

Date Current Contract Expires:

CDPH Program Name:

CDPH Program Contract Manager:

CDPH Program Address:

CDPH Program Contract Manager's Telephone Number:

Date of this Report:

CDPH Program Contract Manager's Telephone Number:

Date of this Report:

CDPH Program Contract Manager's Telephone Number:

INSTRUCTIONS FOR CDPH 1204 (Please read carefully.)

The information on this form will be used by the California Department of Public Health (CDPH) Asset Management (AM) to: (a) conduct an inventory of CDPH equipment and/or property (see definitions A, and B) in the possession of the Contractor and/or Subcontractors, and (b) dispose of these same items. Report all items, regardless of the items' ages, per number 1 below, purchased with CDPH funds and used to conduct state business under this contract. (See *Public Health Administrative Manual (PHAM)*, Section 1-1000 and Section 3-1320.)

The CDPH Program Contract Manager is responsible for obtaining information from the Contractor for this form. The CDPH Program Contract Manager is responsible for the accuracy and completeness of the information and for submitting it to AM.

Inventory: List all CDPH tagged equipment and/or property on this form and submit it within 30 days prior to the three-year anniversary of the contract's effective date, if applicable. **The inventory should be based on previously submitted CDPH 1203s**, "Contractor Equipment Purchased with CDPH Funds." AM will contact the CDPH Program Contract Manager if there are any discrepancies. (See PHAM, Section 1-1020.)

Disposal: (*Definition: Trade in, sell, junk, salvage, donate, or transfer; also, items lost, stolen, or destroyed (as by fire).*) The CDPH 1204 should be completed, along with a "Property Survey Report" (STD. 152) or a "Property Transfer Report" (STD. 158), whenever items need to be disposed of; (a) during the term of this contract and (b) 30 calendar days before the termination of this contract. After receipt of this form, the AM will contact the CDPH Program Contract Manager to arrange for the appropriate disposal/transfer of the items. (See PHAM, Section 1-1050.)

1. List the state/ CDPH property tag, quantity, description, purchase date, base unit cost, and serial number (if applicable) for each item of;
 - A. Major Equipment: **(These items were issued green numbered state/ CDPH property tags.)**
 - Tangible item having a base unit cost of \$5,000 or more and a life expectancy of one (1) year or more.
 - Intangible item having a base unit cost of \$5,000 or more and a life expectancy of one (1) year or more (e.g., software, video.)
 - B. Minor Equipment/Property: **(These items were issued green state/ CDPH property tags.)**
 Specific tangible items with a life expectancy of one (1) year or more that have a base unit cost less than \$5,000. The minor equipment and/or property items were issued green unnumbered "BLANK" state/ CDPH property tags with the exception of the following, which are issued numbered tags: Personal Digital Assistant (PDA), PDA/cell phone combination (Blackberries), laptops, desktop personal computers, LAN servers, routers and switches.
2. If a vehicle is being reported, provide the Vehicle Identification Number (VIN) and the vehicle license number to CDPH Vehicle Services. (See PHAM, Section 17-4000.)
3. If all items being reported do not fit on one page, make copies and write the number of pages being sent in the upper right-hand corner (e.g. "Page 1 of 3.")
4. The CDPH Program Contract Manager should retain one copy and send the original to: California Department of Public Health, Asset Management, MS1801, P.O. Box 997377, Sacramento, CA 95899-7377.
5. Use the version on the CDPH Intranet forms site. The CDPH 1204 consists of one page for completion and one page with information and instructions.

For more information on completing this form, call AM at (916) 341-6168.

Exhibit I
Information Privacy and Security Requirements
(For Non-HIPAA/HITECH Act Contracts)

This Information Privacy and Security Requirements Exhibit (For Non-HIPAA/HITECH Act Contracts) (hereinafter referred to as "this Exhibit") sets forth the information privacy and security requirements Contractor is obligated to follow with respect to all personal and confidential information (as defined herein) disclosed to Contractor, or collected, created, stored, transmitted or used by Contractor for or on **behalf** of the California Department of Public Health (hereinafter "CDPH"), pursuant to Contractor's agreement with CDPH. (Such personal and confidential information is referred to herein collectively as "CDPH PCI".) CDPH and Contractor desire to protect the privacy and provide for the security of CDPH PCI pursuant to this Privacy Exhibit and in compliance with state and federal laws applicable to the CDPH PCI.

- I. Order of Precedence: With respect to information privacy and security requirements for all CDPH PCI, the terms and conditions of this Exhibit shall take precedence over any conflicting terms or conditions set forth in any other part of the agreement between Contractor and CDPH, including Exhibit A (Scope of Work), all other exhibits and any other attachments, and shall prevail over any such conflicting terms or conditions.
- II. Effect on lower tier transactions: The terms of this Exhibit shall apply to all contracts, subcontracts, and subawards, and the information privacy and security requirements Contractor is obligated to follow with respect to CDPH PCI disclosed to Contractor, or collected, created, stored, transmitted or used by Contractor for or on behalf of CDPH, pursuant to Contractor's agreement with CDPH. When applicable the Contractor shall incorporate the relevant provisions of this Exhibit into each subcontract or subaward to its agents, subcontractors, or independent consultants.
- III. Definitions: For purposes of the agreement between Contractor and CDPH, including this Exhibit, the following definitions shall apply:
 - A. Breach: "Breach" means:
 1. the unauthorized acquisition, access, use, or disclosure of CDPH PCI in a manner which compromises the security, confidentiality or integrity of the information; or
 2. the same as the definition of "breach of the security of the system" set forth in California Civil Code section 1798.29(f).
 - B. Confidential Information: "Confidential information" means information that:
 1. does not meet the definition of "public records" set forth in California Government Code section 6252(e), or is exempt from disclosure under any of the provisions of Section 6250, et seq. of the California Government Code or any other applicable state or federal laws; or
 2. is contained in documents, files, folders, books or records that are clearly labeled, marked or designated with the word "confidential" by CDPH; or
 3. is "personal information" as defined in this Exhibit.
 - C. Disclosure: "Disclosure" means the release, transfer, provision of, access to, or divulging in any other manner of information.
 - D. Personal Information: "Personal information" means information, in any medium (paper, electronic, oral) that:
 1. by itself directly identifies or uniquely describes an individual; or

Exhibit I
Information Privacy and Security Requirements
(For Non-HIPAA/HITECH Act Contracts)

2. creates a substantial risk that it could be used in combination with other information to indirectly identify or uniquely describe an individual, or link an individual to the other information; or
3. meets the definition of "personal information" set forth in California Civil Code section 1798.3(a) or
4. is one of the data elements set forth in California Civil Code section 1798.29(g)(1) or (g)(2); or
5. meets the definition of "medical information" set forth in either California Civil Code section 1798.29(h)(2) or California Civil Code section 56.05(g); or
6. meets the definition of "health insurance information" set forth in California Civil Code section 1798.29(h)(3); or
7. Is protected from disclosure under applicable state or federal law.

E. Security Incident: "Security Incident" means:

1. an attempted breach; or
2. the attempted or successful modification or destruction of CDPH PCI, in violation of any state or federal law or in a manner not permitted under the agreement between Contractor and CDPH, including this Exhibit; or
3. the attempted or successful modification or destruction of, or interference with, Contractor's system operations in an information technology system, that negatively impacts the confidentiality, availability or integrity of CDPH PCI.

F. Use: "Use" means the sharing, employment, application, utilization, examination, or analysis of information.

- IV. Disclosure Restrictions: The Contractor and its employees, agents, or subcontractors shall protect from unauthorized disclosure any CDPH PCI. The Contractor shall not disclose, except as otherwise specifically permitted by the agreement between Contractor and CDPH (including this Exhibit), any CDPH PCI to anyone other than CDPH without prior written authorization from the CDPH Program Contract Manager, except if disclosure is required by State or Federal law.
- V. Use Restrictions: The Contractor and its employees, agents, or subcontractors shall not use any CDPH PCI for any purpose other than carrying out the Contractor's obligations under its agreement with CDPH.
- VI. Safeguards: The Contractor shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the privacy, confidentiality, security, integrity, and availability of CDPH PCI, including electronic or computerized CDPH PCI. At each location where CDPH PCI is located, the Contractor shall develop and maintain a written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Contractor's operations and the nature and scope of its activities in performing its agreement with CDPH, including this Exhibit, and which incorporates the requirements of Section VII, Security, below. Contractor shall provide CDPH with Contractor's current and updated policies.
- VII. Security: The Contractor shall take any and all steps reasonably necessary to ensure the continuous security of all computerized data systems containing CDPH PCI. These steps shall include, at a minimum, complying with all of the data system security precautions listed in the Contractor Data Security Standards set forth in Attachment 1 to this Exhibit.

Exhibit I
Information Privacy and Security Requirements
(For Non-HIPAA/HITECH Act Contracts)

- VIII. Security Officer: At each location where CDPH PCI is located, the Contractor shall designate a Security Officer to oversee its compliance with this Exhibit and for communicating with CDPH on matters concerning this Exhibit.
- IX. Training: The Contractor shall provide training on its obligations under this Exhibit, at its own expense, to all of its employees who assist in the performance of Contractor's obligations under Contractor's agreement with CDPH, including this Exhibit, or otherwise use or disclose CDPH PCI.
- A. The Contractor shall require each employee who receives training to certify, either in hard copy or electronic form, the date on which the training was completed.
 - B. The Contractor shall retain each employee's certifications for CDPH inspection for a period of three years following contract termination.
- X. Employee Discipline: Contractor shall impose discipline that it deems appropriate (in its sole discretion) on such employees and other Contractor workforce members under Contractor's direct control who intentionally violate any provisions of this Exhibit.
- XI. Breach and Security Incident Responsibilities:
- A. Notification to CDPH of Breach or Security Incident: The Contractor shall notify CDPH **immediately by telephone call plus email or fax** upon the discovery of a breach (as defined in this Exhibit), **or within twenty-four (24) hours by email or fax** of the discovery of any security incident (as defined in this Exhibit), unless a law enforcement agency determines that the notification will impede a criminal investigation, in which case the notification required by this section shall be made to CDPH immediately after the law enforcement agency determines that such notification will not compromise the investigation. Notification shall be provided to the CDPH Program Contract Manager, the CDPH Privacy Officer and the CDPH Chief Information Security Officer, using the contact information listed in Section XI(c), below. If the breach or security incident is discovered after business hours or on a weekend or holiday and involves CDPH PCI in electronic or computerized form, notification to CDPH shall be provided by calling the CDPH IIT Service Desk at the telephone numbers listed in Section XI(c), below. For purposes of this Section, breaches and security incidents shall be treated as discovered by Contractor as of the first day on which such breach or security incident is known to the Contractor.
- Contractor shall take:
- 1. prompt corrective action to mitigate any risks or damages involved with the breach or security incident and to protect the operating environment; and
 - 2. any action pertaining to a breach required by applicable federal and state laws, including, specifically, California Civil Code section 1798.29.
- B. Investigation of Breach: The Contractor shall immediately investigate such breach or security incident. As soon as the information is known and subject to the legitimate needs of law enforcement, Contractor shall inform the CDPH Program Contract Manager, the CDPH Privacy Officer, and the CDPH Chief Information Security Officer of:
 - 1. what data elements were involved and the extent of the data involved in the breach, including, specifically, the number of individuals whose personal information was breached; and

Exhibit I
Information Privacy and Security Requirements
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2. a description of the unauthorized persons known or reasonably believed to have improperly used the CDPH PCI and/or a description of the unauthorized persons known or reasonably believed to have improperly accessed or acquired the CDPH PCI, or to whom it is known or reasonably believe have had the CDPH PCI improperly disclosed to them; and
 3. a description of where the CDPH PCI is believed to have been improperly used or disclosed; and
 4. a description of the probable causes of the breach or security incident; and
 5. whether Civil Code sections 1798.29 or any other federal or state laws requiring individual notifications of breaches have been triggered.
- C. Written Report: The Contractor shall provide a written report of the investigation to the CDPH Program Contract Manager, the CDPH Privacy Officer, and the CDPH Chief Information Security Officer as soon as practicable after the discovery of the breach or security incident. The report shall include, but not be limited to, the information specified above, as well as a full, detailed corrective action plan, including information on measures that were taken to halt and/or contain the breach or security incident, and measures to be taken to prevent the recurrence of such breach or security incident.
- D. Notification to Individuals: If notification to individuals whose information was breached is required under state or federal law, and regardless of whether Contractor is considered only a custodian and/or non-owner of the CDPH PCI, Contractor shall, at its sole expense, and at the sole election of CDPH, either:
1. make notification to the individuals affected by the breach (including substitute notification), pursuant to the content and timeliness provisions of such applicable state or federal breach notice laws. Contractor shall inform the CDPH Privacy Officer of the time, manner and content of any such notifications, prior to the transmission of such notifications to the individuals; or
 2. cooperate with and assist CDPH in its notification (including substitute notification) to the individuals affected by the breach.
- E. Submission of Sample Notification to Attorney General: If notification to more than 500 individuals is required pursuant to California Civil Code section 1798.29, and regardless of whether Contractor is considered only a custodian and/or non-owner of the CDPH PCI, Contractor shall, at its sole expense, and at the sole election of CDPH, either:
1. electronically submit a single sample copy of the security breach notification, excluding any personally identifiable information, to the Attorney General pursuant to the format, content and timeliness provisions of Section 1798.29(e). Contractor shall inform the CDPH Privacy Officer of the time, manner and content of any such submissions, prior to the transmission of such submissions to the Attorney General; or
 2. cooperate with and assist CDPH in its submission of a sample copy of the notification to the Attorney General.
- F. CDPH Contact Information: To direct communications to the above referenced CDPH staff, the Contractor shall initiate contact as indicated herein. CDPH reserves the right to make changes to the contact information below by written notice to the Contractor. Said changes shall not require an amendment to this Exhibit or the agreement to which it is incorporated.

Exhibit I
Information Privacy and Security Requirements
(For Non-HIPAA/HITECH Act Contracts)

CDPH Program Contract Manager	CDPH Privacy Officer	CDPH Chief Information Security Officer (and CDPH IT Service Desk)
See the Scope of Work exhibit for Program Contract Manager	Privacy Officer Privacy Office, c/o Office of Legal Services California Department of Public Health P.O. Box 997377, MS 0506 Sacramento, CA 95899-7377 Email: privacy@cdph.ca.gov Telephone: (877) 421-9634	Chief Information Security Officer Information Security Office California Department of Public Health P.O. Box 997413, MS 6302 Sacramento, CA 95899-7413 Email: cdphiso@cdph.ca.gov Telephone: IT Service Desk (916) 440-7000 or (800) 579-0874

- XII. Documentation of Disclosures for Requests for Accounting: Contractor shall document and make available to CDPH or (at the direction of CDPH) to an Individual such disclosures of CDPH PCI, and information related to such disclosures, necessary to respond to a proper request by the subject Individual for an accounting of disclosures of personal information as required by applicable state or federal law.
- XIII. Requests for CDPH PCI by Third Parties: The Contractor and its employees, agents, or subcontractors shall promptly transmit to the CDPH Program Contract Manager all requests for disclosure of any CDPH PCI emanating from third parties to the agreement between Contractor and CDPH (and not emanating from an Individual for an accounting of disclosures of personal information pursuant to applicable state or federal law), unless prohibited from doing so by applicable state or federal law.
- XIV. Audits, Inspection and Enforcement: From time to time, CDPH may inspect the facilities, systems, books and records of Contractor to monitor compliance with this Exhibit. Contractor shall promptly remedy any violation of any provision of this Exhibit and shall certify the same to the CDPH Program Contract Manager in writing.
- XV. Return or Destruction of CDPH PCI on Expiration or Termination: On expiration or termination of the agreement between Contractor and CDPH for any reason, Contractor shall return or destroy the CDPH PCI. If return or destruction is not feasible, Contractor shall explain to CDPH why, in writing, to the CDPH Program Contract Manager, the CDPH Privacy Officer and the CDPH Chief Information Security Officer, using the contact information listed in Section XI(c), above.
- A. Retention Required by Law: If required by state or federal law, Contractor may retain, after expiration or termination, CDPH PCI for the time specified as necessary to comply with the law.
- B. Obligations Continue Until Return or Destruction: Contractor's obligations under this Exhibit shall continue until Contractor returns or destroys the CDPH PCI or returns the CDPH PCI to CDPH; provided however, that on expiration or termination of the agreement between Contractor and CDPH, Contractor shall not further use or disclose the CDPH PCI except as Required by state or federal law.
- C. Notification of Election to Destroy CDPH PCI: If Contractor elects to destroy the CDPH PCI, Contractor shall certify in writing, to the CDPH Program Contract Manager, the CDPH Privacy Officer

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and the CDPH Chief Information Security Officer, using the contact information listed in Section XI(c), above, that the CDPH PCI has been destroyed.

- XVI. Amendment: The parties acknowledge that Federal and State laws relating to information security and privacy are rapidly evolving and that amendment of this Exhibit may be required to provide for procedures to ensure compliance with such laws. The parties specifically agree to take such action as is necessary to implement new standards and requirements imposed by regulations and other applicable laws relating to the security or privacy of CDPH PCI. The parties agree to promptly enter into negotiations concerning an amendment to this Exhibit consistent with new standards and requirements imposed by applicable laws and regulations.
- XVII. Assistance in Litigation or Administrative Proceedings: Contractor shall make itself and any subcontractors, employees or agents assisting Contractor in the performance of its obligations under the agreement between Contractor and CDPH, available to CDPH at no cost to CDPH to testify as witnesses, in the event of litigation or administrative proceedings being commenced against CDPH, its director, officers or employees based upon claimed violation of laws relating to security and privacy, which involves inactions or actions by the Contractor, except where Contractor or its subcontractor, employee or agent is a named adverse party.
- XVIII. No Third-Party Beneficiaries: Nothing express or implied in the terms and conditions of this Exhibit is intended to confer, nor shall anything herein confer, upon any person other than CDPH or Contractor and their respective successors or assignees, any rights, remedies, obligations or liabilities whatsoever.
- XIX. Interpretation: The terms and conditions in this Exhibit shall be interpreted as broadly as necessary to implement and comply with regulations and applicable State laws. The parties agree that any ambiguity in the terms and conditions of this Exhibit shall be resolved in favor of a meaning that complies and is consistent with Federal and State laws and regulations.
- XX. Survival: If Contractor does not return or destroy the CDPH PCI upon the expiration or termination of the Agreement, the respective rights and obligations of Contractor under Sections VI, VII and XI of this Exhibit shall survive the termination or expiration of the agreement between Contractor and CDPH.

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Attachment 1
Contractor Data Security Standards

1. General Security Controls

- A. **Confidentiality Statement.** All persons that will be working with CDPH PCI must sign a confidentiality statement. The statement must include at a minimum, General Use, Security and Privacy safeguards, Unacceptable Use, and Enforcement Policies. The statement must be signed by the workforce member prior to access to CDPH PCI. The statement must be renewed annually. The Contractor shall retain each person's written confidentiality statement for CDPH inspection for a period of three (3) years following contract termination.
- B. **Background check.** Before a member of the Contractor's workforce may access CDPH PCI, Contractor must conduct a thorough background check of that worker and evaluate the results to assure that there is no indication that the worker may present a risk for theft of confidential data. The Contractor shall retain each workforce member's background check documentation for a period of three (3) years following contract termination.
- C. **Workstation/Laptop encryption.** All workstations and laptops that process and/or store CDPH PCI must be encrypted using a FIPS 140-2 certified algorithm, such as Advanced Encryption Standard (AES), with a 128bit key or higher. The encryption solution must be full disk unless approved by the CDPH Information Security Office.
- D. **Server Security.** Servers containing unencrypted CDPH PCI must have sufficient administrative, physical, and technical controls in place to protect that data, based upon a risk assessment/system security review.
- E. **Minimum Necessary.** Only the minimum necessary amount of CDPH PCI required to perform necessary business functions may be copied, downloaded, or exported.
- F. **Removable media devices.** All electronic files that contain CDPH PCI data must be encrypted when stored on any removable media or portable device (i.e. USB thumb drives, floppies, CD/DVD, Blackberry, backup tapes etc.). Must be encrypted using a FIPS 140-2 certified algorithm, such as Advanced Encryption Standard (AES), with a 128bit key or higher
- G. **Antivirus software.** All workstations, laptops and other systems that process and/or store CDPH PCI must install and actively use comprehensive anti-virus software solution with automatic updates scheduled at least daily.
- H. **Patch Management.** All workstations, laptops and other systems that process and/or store CDPH PCI must have security patches applied, with system reboot if necessary. There must be a documented patch management process which determines installation timeframe based on risk assessment and vendor recommendations. At a maximum, all applicable patches must be installed within 30 days of vendor release.
- I. **User IDs and Password Controls.** All users must be issued a unique user name for accessing CDPH PCI. Username must be promptly disabled, deleted, or the password changed upon the transfer or termination of an employee with knowledge of the password. Passwords are not to be shared. Must be at least eight characters. Must be a non-dictionary word. Must not be stored in

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readable format on the computer. Must be changed every 60 days. Must be changed if revealed or compromised. Must be composed of characters from at least three of the following four groups from the standard keyboard:

- Upper case letters (A-Z)
- Lower case letters (a-z)
- Arabic numerals (0-9)
- Non-alphanumeric characters (punctuation symbols)

- J. **Data Sanitization.** All CDPH PCI must be sanitized using NIST Special Publication 800-88 standard methods for data sanitization when the CDPH PSCI is no longer needed.

2. System Security Controls

- A. **System Timeout.** The system must provide an automatic timeout, requiring re-authentication of the user session after no more than 20 minutes of inactivity.
- B. **Warning Banners.** All systems containing CDPH PCI must display a warning banner stating that data is confidential, systems are logged, and system use is for business purposes only. User must be directed to log off the system if they do not agree with these requirements.
- C. **System Logging.** The system must maintain an automated audit trail which can identify the user or system process which initiates a request for CDPH PCI, or which alters CDPH PCI. The audit trail must be date and time stamped, must log both successful and failed accesses, must be read only, and must be restricted to authorized users. If CDPH PCI is stored in a database, database logging functionality must be enabled. Audit trail data must be archived for at least 3 years after occurrence.
- D. **Access Controls.** The system must use role based access controls for all user authentications, enforcing the principle of least privilege.
- E. **Transmission encryption.** All data transmissions of CDPH PCI outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm, such as Advanced Encryption Standard (AES), with a 128bit key or higher. Encryption can be end to end at the network level, or the data files containing CDPH PCI can be encrypted. This requirement pertains to any type of CDPH PCI in motion such as website access, file transfer, and E-Mail.
- F. **Intrusion Detection.** All systems involved in accessing, holding, transporting, and protecting CDPH PCI that are accessible via the Internet must be protected by a comprehensive intrusion detection and prevention solution.

3. Audit Controls

- A. **System Security Review.** All systems processing and/or storing CDPH PCI must have at least an annual system risk assessment/security review which provides assurance that administrative, physical, and technical controls are functioning effectively and providing adequate levels of protection. Reviews shall include vulnerability scanning tools.

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- B. **Log Reviews.** All systems processing and/or storing CDPH PCI must have a routine procedure in place to review system logs for unauthorized access.
- C. **Change Control.** All systems processing and/or storing CDPH PCI must have a documented change control procedure that ensures separation of duties and protects the confidentiality, integrity and availability of data.

4. Business Continuity / Disaster Recovery Controls

- A. **Disaster Recovery.** Contractor must establish a documented plan to enable continuation of critical business processes and protection of the security of electronic CDPH PCI in the event of an emergency. Emergency means any circumstance or situation that causes normal computer operations to become unavailable for use in performing the work required under this agreement for more than 24 hours.
- B. **Data Backup Plan.** Contractor must have established documented procedures to backup CDPH PCI to maintain retrievable exact copies of CDPH PCI. The plan must include a regular schedule for making backups, storing backups offsite, an inventory of backup media, and the amount of time to restore CDPH PCI should it be lost. At a minimum, the schedule must be a weekly full backup and monthly offsite storage of CDPH data.

5. Paper Document Controls

- A. **Supervision of Data.** CDPH PCI in paper form shall not be left unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means that information is not being observed by an employee authorized to access the information. CDPH PCI in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in baggage on commercial airplanes.
- B. **Escorting Visitors.** Visitors to areas where CDPH PCI is contained shall be escorted and CDPH PHI shall be kept out of sight while visitors are in the area.
- C. **Confidential Destruction.** CDPH PCI must be disposed of through confidential means, using NIST Special Publication 800-88 standard methods for data sanitization when the CDPH PSCI is no longer needed.
- D. **Removal of Data.** CDPH PCI must not be removed from the premises of the Contractor except with express written permission of CDPH.
- E. **Faxing.** Faxes containing CDPH PCI shall not be left unattended and fax machines shall be in secure areas. Faxes shall contain a confidentiality statement notifying persons receiving faxes in error to destroy them. Fax numbers shall be verified with the intended recipient before sending.
- F. **Mailing.** CDPH PCI shall only be mailed using secure methods. Large volume mailings of CDPH PHI shall be by a secure, bonded courier with signature required on receipt. Disks and other transportable media sent through the mail must be encrypted with a CDPH approved solution, such as a solution using a vendor product specified on the CSSI.

Exhibit J

Contractor's Release

Instructions to Contractor:

With final invoice(s) submit one (1) original and one (1) copy. The original must bear the original signature of a person authorized to bind the Contractor. The additional copy may bear photocopied signatures.

Submission of Final Invoice

Pursuant to **contract number** 15-11060 entered into between the State of California Department of Public Health (CDPH) and the Contractor (identified below), the Contractor does acknowledge that final payment has been requested via **invoice number(s)** _____, in the **amount(s) of \$** _____ and **dated** _____.
If necessary, enter "See Attached" in the appropriate blocks and attach a list of invoice numbers, dollar amounts and invoice dates.

Release of all Obligations

By signing this form, and upon receipt of the amount specified in the invoice number(s) referenced above, the Contractor does hereby release and discharge the State, its officers, agents and employees of and from any and all liabilities, obligations, claims, and demands whatsoever arising from the above referenced contract.

Repayments Due to Audit Exceptions / Record Retention

By signing this form, Contractor acknowledges that expenses authorized for reimbursement does not guarantee final allowability of said expenses. Contractor agrees that the amount of any sustained audit exceptions resulting from any subsequent audit made after final payment will be refunded to the State.

All expense and accounting records related to the above referenced contract must be maintained for audit purposes for no less than three years beyond the date of final payment, unless a longer term is stated in said contract.

Recycled Product Use Certification

By signing this form, Contractor certifies under penalty of perjury that a minimum of 0% unless otherwise specified in writing of post consumer material, as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether it meets the requirements of Public Contract Code Section 12209. Contractor specifies that printer or duplication cartridges offered or sold to the State comply with the requirements of Section 12156(e).

Reminder to Return State Equipment/Property (If Applicable)

(Applies only if equipment was provided by CDPH or purchased with or reimbursed by contract funds)

Unless CDPH has approved the continued use and possession of State equipment (as defined in the above referenced contract) for use in connection with another CDPH agreement, Contractor agrees to promptly initiate arrangements to account for and return said equipment to CDPH, at CDPH's expense, if said equipment has not passed its useful life expectancy as defined in the above referenced contract.

Patents / Other Issues

By signing this form, Contractor further agrees, in connection with patent matters and with any claims that are not specifically released as set forth above, that it will comply with all of the provisions contained in the above referenced contract, including, but not limited to, those provisions relating to notification to the State and related to the defense or prosecution of litigation.

ONLY SIGN AND DATE THIS DOCUMENT WHEN ATTACHING TO THE FINAL INVOICE

Contractor's Legal Name (as on contract): County of Los Angeles

Signature of Contractor or Official Designee: _____ Date: _____

Printed Name/Title of Person Signing: _____

CDPH Distribution: Accounting (Original) Program

Agreement by Employee/Contractor to Comply with Confidentiality Requirements

Summary of Statutes Pertaining to Confidential Public Health Records and Penalties for Disclosure

All HIV/AIDS case reports and any information collected or maintained in the course of surveillance-related activities that may directly or indirectly identify an individual are considered *confidential public health record(s)* under California Health and Safety Code (HSC), Section 121035(c) and must be handled with the utmost confidentiality. Furthermore, HSC §121025(a) prohibits the disclosure of HIV/AIDS-related public health records that contain any personally identifying information to any third party, unless authorized by law for public health purposes, or by the written consent of the individual identified in the record or his/her guardian/conservator. Except as permitted by law, any person who negligently discloses information contained in a confidential public health record to a third party is subject to a civil penalty of up to \$5,000 plus court costs, as provided in HSC §121025(e)(1). Any person who willfully or maliciously discloses the content of a public health record, except as authorized by law, is subject to a civil penalty of \$5,000-\$25,000 plus court costs as provided by HSC §121025(e)(2). Any willful, malicious, or negligent disclosure of information contained in a public health record in violation of state law that results in economic, bodily, or psychological harm to the person named in the record is a misdemeanor, punishable by imprisonment for a period of up to one year and/or a fine of up to \$25,000 plus court costs (HSC §121025(e)(3)). Any person who is guilty of a confidentiality infringement of the foregoing type may be sued by the injured party and shall be personally liable for all actual damages incurred for economic, bodily, or psychological harm as a result of the breach (HSC §121025(e)(4)). Each disclosure in violation of California law is a separate, actionable offense (HSC §121025(e)(5)).

Because an assurance of case confidentiality is the foremost concern of the California Department of Public Health, Office of AIDS (CDPH/OA), any actual or potential breach of confidentiality shall be immediately reported. In the event of any suspected breach, staff shall immediately notify the director or supervisor of the local health department's HIV/AIDS surveillance unit who in turn shall notify the CDPH/OA Surveillance Section Chief or designee. CDPH/OA, in conjunction with the local health department and the local health officer shall promptly investigate the suspected breach. Any evidence of an actual breach shall be reported to the law enforcement agency that has jurisdiction.

Employee Confidentiality Pledge

I recognize that in carrying out my assigned duties, I may obtain access to private information about persons diagnosed with HIV or AIDS that was provided under an assurance of confidentiality. I understand that I am prohibited from disclosing or otherwise releasing any personally identifying information, either directly or indirectly, about any individual named in any HIV/AIDS confidential public health record. Should I be responsible for any breach of confidentiality, I understand that civil and/or criminal penalties may be brought against me. I acknowledge that my responsibility to ensure the privacy of protected health information contained in any electronic records, paper documents, or verbal communications to which I may gain access shall not expire, even after my employment or affiliation with the Department has terminated.

By my signature, I acknowledge that I have read, understand, and agree to comply with the terms and conditions above.

Employee name (print)

Employee Signature

Date

Supervisor name (print)

Supervisor Signature

Date

Name of Employer

Darfur Contracting Act

Pursuant to Public Contract Code (PCC) sections 10475-10481, the Darfur Contracting Act's intent is to preclude State agencies from contracting with scrutinized companies that do business in the African nation of Sudan. A scrutinized company is a company doing specified types of business in Sudan as defined in PCC section 10476. Scrutinized companies are ineligible to, and cannot, contract with a State agency for goods or services (PCC section 10477(a)) unless obtaining permission from the Department of General Services according to the criteria set forth in PCC section 10477(b).

Therefore, to be eligible to contract with the California Department of Public Health, please initial **one of the following** three paragraphs and complete the certification below:

1. _____
 Initials We do not currently have, or we have not had within the previous three years, business activities or other operations outside of the United States.

OR

2. _____
 Initials We are a scrutinized company as defined in Public Contract Code section 10476, but we have received written permission from the Department of General Services (DGS) to submit a bid or proposal pursuant to Public Contract Code section 10477(b) or submit a contract/purchase order. A copy of the written permission from DGS is included with our bid, proposal or contract/purchase order.

OR

3. _____
 Initials We currently have, or we have had within the previous three years, business activities or other operations outside of the United States, but we certify below that we are not a scrutinized company as defined in Public Contract Code section 10476.

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind this company to the clause listed above. This certification is made under the laws of the State of California.

<i>Company Name (Printed)</i>	<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	
<i>Date Executed</i>	<i>Executed in the County and State of</i>